

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA }
 }
v. } Criminal Case No.:
 } 3:12 CR 170
MICHAEL F. HARRIS }

February 25, 2013

**COMPLETE TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE HENRY E. HUDSON
UNITED STATES DISTRICT COURT JUDGE**

APPEARANCES:

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OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT

E X A M I N A T I O N S

	DIRECT	CROSS	REDIRECT	RECROSS
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David Evans	122	152	172	---
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Diane Desch	175	210	226	---
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Nicole Gentry	227	251	264	---
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(The proceeding commenced at 9:14 a.m.)

THE COURT: Good morning.

MR. GILL: Good morning.

MR. WAGNER: Good morning, Your Honor.

THE COURT: All right, Ms. Pizzini, call our case for trial today.

THE CLERK: Case 12 CR 170. *United States of America v. Michael F. Harris.*

Mr. Michael R. Gill and Mr. Gauhar Naseem represent the United States.

Mr. Robert J. Wagner and Mr. Nicholas R. Klaiber represent the defendant.

Are counsel ready to proceed?

MR. GILL: The United States is ready, Your Honor.

MR. WAGNER: Michael Harris is ready, Judge.

THE COURT: Ladies and gentlemen, good morning once again. My name is Henry Hudson, and I'm the United States District Judge that will be trying this case today. The case for your consideration is a criminal case. It's the case of *United States of America v. Michael F. Harris.*

Mr. Harris, if you would stand, sir.

This is Mr. Harris. He is the defendant in the case. And he's represented by his attorneys, Mr. Robert J. Wagner and Mr. Nicholas R. Klaiber.

Gentlemen, you may be seated.

1 The United States of America is represented by the
2 Assistant United States Attorneys, Mr. Michael Gill and
3 Mr. Gauher Naseem.

4 Gentlemen, you may be seated.

5 Ladies and gentlemen, I'll be assisted in this trial
6 by my staff. My law clerk is Mr. Staley. My court
7 reporter is Ms. Liscio. She takes down everything that
8 occurs in the courtroom. My courtroom deputy is
9 Ms. Pizzini. And our bailiff is Deputy Marshal Wray.

10 Now, the case for your consideration, and you will
11 hear a lot more about it during the opening statements, is
12 the case of *United States of America v. Michael F. Harris*.
13 And as will be explained to you during the course of the
14 opening statements, this is a 6-count indictment charging
15 securities fraud, wire fraud, and mail fraud.

16 It is alleged that Mr. Harris offered and sold stock
17 in the research firm, M.F. Harris Research, Incorporated,
18 based on false or untrue representations. Mr. Harris'
19 firm was reportedly engaged in HIV/AIDS research.

20 Now, Mr. Harris has entered a plea of not guilty.
21 He's denied the charges, and 12 of you here today will
22 hear and decide this case.

23 Now, ladies and gentlemen, before we begin the trial
24 itself, our first order of business is what is known as
25 voir dire. That's where I'll ask you a series of

1 questions to make sure there are no conflicts, nothing in
2 your background, no views that you have that would
3 interfere with your ability to be fully fair and impartial
4 in this case. Before I begin with the voir dire, I'm
5 going to ask our Clerk of the Court, Ms. Pizzini, to take
6 the roll and to swear you on your voir dire.

7 Ms. Pizzini.

8 THE CLERK: Jurors, as I call your name, please
9 stand, answer present, and then be seated.

10 Juror Number 1, Marcia Ann Tatum Adams.

11 JUROR NUMBER 1: Present.

12 THE CLERK: Juror Number 2, Carroll Linwood Allen.

13 JUROR NUMBER 2: Present.

14 THE CLERK: Juror Number 3, Nancy Ann Andolina.

15 JUROR NUMBER 3: Present.

16 THE CLERK: Juror Number 4, Angela Sorbert Arrington.

17 JUROR NUMBER 4: Present.

18 THE CLERK: Juror Number 5, Carolyn Jean Blakelock.

19 JUROR NUMBER 5: Present.

20 THE CLERK: Juror Number 6, Rachel Weber Bondurant.

21 JUROR NUMBER 6: Present.

22 THE CLERK: Juror Number 7, Leslie Dawn Boughman.

23 JUROR NUMBER 7: Present.

24 THE CLERK: Juror Number 8, Victoria Lynn Bragunier.

25 JUROR NUMBER 8: Present.

1 THE CLERK: Juror Number 9, Celia Louise Broadus.

2 JUROR NUMBER 9: Present.

3 THE CLERK: Juror Number 10, Valerie Elizabeth Casey.

4 JUROR NUMBER 10: Present.

5 THE CLERK: Juror Number 11, Joseph Anthony Crute.

6 JUROR NUMBER 11: Present.

7 THE CLERK: Juror Number 12, Lori Ann Dameron.

8 JUROR NUMBER 12: Present.

9 THE CLERK: Juror Number 13, Sharon Hinton Dickens.

10 JUROR NUMBER 13: Present.

11 THE CLERK: Juror Number 14, Charles Ryan Fanelli.

12 JUROR NUMBER 14: Present.

13 THE CLERK: Juror Number 15, Kevin Joseph Faubion.

14 JUROR NUMBER 15: Present.

15 THE CLERK: Juror Number 16, James Bradley Folk.

16 JUROR NUMBER 16: Present.

17 THE CLERK: Juror Number 17, Todd Everett Foster.

18 JUROR NUMBER 17: Present.

19 THE CLERK: Juror Number 18, Kevin Thomas Goldsmith.

20 JUROR NUMBER 18: Present.

21 THE CLERK: Juror Number 20, Tanicka Heiskell-Stokes.

22 JUROR NUMBER 20: Present.

23 THE CLERK: Juror Number 22, Thomas John Izzo.

24 JUROR NUMBER 22: Present.

25 THE CLERK: Juror Number 23, Claibourne Jeremy

1 Jackson.

2 JUROR NUMBER 23: Present.

3 THE CLERK: Juror Number 24, Kimberly Lange Jones.

4 JUROR NUMBER 24: Present.

5 THE CLERK: Juror Number 26, Thomas Lee Kirk.

6 JUROR NUMBER 26: Present.

7 THE CLERK: Juror Number 27, Robert Anthony Kitusky.

8 JUROR NUMBER 27: Present.

9 THE CLERK: Juror Number 28, Samuel Frank Kothman.

10 JUROR NUMBER 28: Present.

11 THE CLERK: Juror Number 30, Khawarz Mian.

12 JUROR NUMBER 30: Present.

13 THE CLERK: Juror Number 31, Martha Pratt.

14 JUROR NUMBER 31: Present.

15 THE CLERK: Juror Number 32, Randolph John Rowekamp.

16 JUROR NUMBER 32: Present.

17 THE CLERK: Juror Number 33, Edward Stuart Ruffner.

18 JUROR NUMBER 33: Present.

19 THE CLERK: Juror Number 34, Logan Sale Ryan.

20 JUROR NUMBER 34: Present.

21 THE CLERK: Juror Number 35, Paul Jay Sixt.

22 JUROR NUMBER 35: Present.

23 THE CLERK: Juror Number 36, Lasonya Rene Slade.

24 JUROR NUMBER 36: Present.

25 THE CLERK: Juror Number 37, Stacy Jones Slusser.

JUROR NUMBER 37: Present.

THE CLERK: Juror Number 38, Carol Schumacher Smith.

JUROR NUMBER 38: Present.

THE CLERK: Juror Number 39, Douglas Harry Snell.

JUROR NUMBER 39: Present.

THE CLERK: Juror Number 40, Laverna Noel Stallard.

JUROR NUMBER 40: Present.

THE CLERK: Juror Number 41, Temple Rene Stewart.

JUROR NUMBER 41: Present.

THE CLERK: Juror Number 42, Edwinna B. Stinnett.

JUROR NUMBER 42: Present.

THE CLERK: Juror Number 43, Stuart Philip Webel.

JUROR NUMBER 43: Present.

THE CLERK: Juror Number 44, Brian Scott Wickline.

JUROR NUMBER 44: Present.

THE CLERK: Juror Number 45, Diamond Lakesha Wiggins.

JUROR NUMBER 45: Present.

THE CLERK: Juror Number 46, Richard Paul Williams,

Jr.

JUROR NUMBER 46: Present.

THE CLERK: Juror Number 47, Andrea Davis

Winebrenner.

JUROR NUMBER 47: Present.

THE CLERK: Juror Number 48, Shanna Marie Wiseman.

JUROR NUMBER 48: Present.

1 THE CLERK: Juror Number 49, Russell Leroy Wood, Jr.

2 JUROR NUMBER 49: Present.

3 THE CLERK: Juror Number 50, Deborah Mayo Worten.

4 JUROR NUMBER 50: Present.

5 THE CLERK: Juror Number 51, Alberta Christophersen.

6 JUROR NUMBER 51: Present.

7 THE CLERK: Juror Number 52, Virginia Kent Dunn
8 James.

9 JUROR NUMBER 52: Present.

10 THE CLERK: Juror Number 53, Roxanne Briggs Lawrence.

11 JUROR NUMBER 53: Present.

12 THE CLERK: Juror Number 54, Andrea Crockett Rich.

13 JUROR NUMBER 54: Present.

14 THE CLERK: Are there any jurors present in the
15 courtroom whose name I did not call?

16 Jurors, if you would please stand, raise your right
17 hand, and answer I shall to the oath about to be given.

18 You shall true and perfect answer make to those
19 questions which may be propounded to you by the Court or
20 by counsel, so help you God?

21 JURORS: I shall.

22 THE CLERK: Thank you.

23 THE COURT: Ladies and gentlemen, before I begin
24 going through a series of questions, there is one
25 principle of law that I want to underscore because we'll

1 be discussing perhaps elements of the charge during the
2 voir dire. Mr. Harris has been indicted by a grand jury
3 as I mentioned, a 6-count indictment; however, keep in
4 mind that an indictment is not evidence against
5 Mr. Harris. It is the legal vehicle that the government
6 uses to bring forth criminal charges. No inference should
7 be drawn from you whatsoever, nor is it evidence the fact
8 that he was indicted by a grand jury.

9 Now, ladies and gentlemen, we're going to select 14
10 jurors today. Twelve of them will be active jurors, and
11 two will be alternates. Only 12 jurors, though, will
12 actually engage in deliberations in the case.

13 I'm going to ask you a series of questions, and if
14 you have an affirmative answer, I want you to raise your
15 hand. When I call upon you, if you will be kind enough to
16 give your name and your number before you respond. And
17 the reason for that is simply Ms. Liscio has got to take
18 down everything that occurs in the courtroom, and the only
19 way she can identify who is speaking is if you identify
20 yourself.

21 Are there any members of the jury panel who are
22 acquainted with the defendant in this case, Mr. Michael F.
23 Harris? Anyone here know Mr. Harris?

24 Is there any member of the jury panel who has been
25 employed by, or holds stock in M.F. Harris Research,

1 Incorporated?

2 Is there any member of the jury panel who has been
3 represented either in their personal or professional
4 business by any of the attorneys in this case, Mr. Robert
5 J. Wagner, Mr. Nicholas R. Klaiber, Mr. Michael Gill, or
6 Mr. Gauhar Naseem?

7 Ladies and gentlemen, this is a case that will
8 probably require at least a week to try. I'm going to try
9 my very, very best to complete this case in a week. It
10 could go over into Monday. I'll do my best, but I can't
11 always deliver on that because there are a lot of
12 variables here. So, is there anyone here -- and I know
13 everyone present with the daily lifestyle we lead here in
14 the City of Richmond is busy with their personal,
15 professional, business, and family obligations, but is
16 there anyone here who could not serve for a week if this
17 case required it? I mean, either you've got to do it, or
18 one of your neighbors has got to serve, so I would ask you
19 to search your conscious a bit. But is there anyone in
20 the jury panel who just simply could not serve for a week?

21 Yes, sir. Gentleman in the first row.

22 JUROR NUMBER 2: Carroll Allen. Juror Number 2. My
23 wife has become ill and she has an appointment with her
24 doctor in Chapel Hill, North Carolina tomorrow.

25 THE COURT: All right. I'll do my best to try to

1 accommodate you, Mr. Allen. Thank you, sir.

2 Yes, ma'am. The lady on the front row.

3 JUROR NUMBER 5: Number 5. Carolyn Blakelock. I'm a
4 principal for a program that's trying to do a test next
5 Tuesday, and I have several meetings I'm supposed to be
6 attending this week.

7 THE COURT: Well, we'll do our best to try to
8 accommodate you. I can't promise you, but I'll do my
9 best.

10 JUROR NUMBER 5: I appreciate it. I understand.

11 THE COURT: Yes, ma'am. I'll do my best.

12 All right. The lady in the back. Yes, ma'am.

13 JUROR NUMBER 37: Stacy Jones Slusser. Number 37.

14 THE COURT: Number 37. Okay.

15 JUROR NUMBER 37: I currently have a respiratory
16 illness right now and I don't know if I'll be able to
17 tolerate it or the Court would tolerate it.

18 THE COURT: All right. Well, I'm going to do my
19 very, very best to accommodate you.

20 JUROR NUMBER 37: Thank you. Sorry.

21 THE COURT: That's okay. Happens to all of us.

22 Anyone else on this side?

23 Anyone on this side? Yes, ma'am.

24 JUROR NUMBER 34: Number 34. Logan Ryan. I have
25 plans to go out of town Thursday and Friday.

1 THE COURT: All right. I assume it's something that
2 simply cannot be canceled even if your civic duty requires
3 it?

4 JUROR NUMBER 34: Well, it was booked about two
5 months ago.

6 THE COURT: Number 34. Ms. Ryan. I'll do my best to
7 accommodate you, okay?

8 JUROR NUMBER 34: Thank you.

9 THE COURT: All right. Anyone else on this side?
10 Yes, ma'am.

11 JUROR NUMBER 45: Number 45. Diamond Wiggins.

12 THE COURT: Number 45. Yes, ma'am, Ms. Wiggins.

13 JUROR NUMBER 45: In the evening time I have no one
14 to get my kids off the bus so I have to be home.

15 THE COURT: What time do you have to be there?

16 JUROR NUMBER 45: My first son gets out of school and
17 he is to be home by 3:15.

18 THE COURT: 3:15. I'll try to make it a priority to
19 accommodate you. I understand your obligations.

20 JUROR NUMBER 45: Thank you.

21 THE COURT: Anyone else?

22 Excuse me just one second.

23 Anyone else on this side?

24 Yes, ma'am.

25 JUROR NUMBER 3: Number 3. Nancy Andolina. I'm a

1 diabetic, and I cannot go through a day without eating.

2 THE COURT: I understand. My son is a diabetic. I'm
3 familiar with the problem. If you need a recess you can
4 just raise your hand and we'll give you a recess, we'll
5 accommodate you fully.

6 JUROR NUMBER 3: Okay.

7 THE COURT: Yes, ma'am. And don't be at all shy
8 about raising your hand. We're glad to do it.

9 Yes, ma'am.

10 JUROR NUMBER 53: Roxanne Lawrence. Number 53.

11 THE COURT: Yes, ma'am.

12 JUROR NUMBER 53: I'm the only one that works in my
13 home, and --

14 THE COURT: I'm sorry. I can't hear you. I
15 apologize to you.

16 JUROR NUMBER 53: I'm the only one that works in my
17 home, and I would be missing work and not getting paid.

18 THE COURT: All right. You're Juror Number 53,
19 Ms. Lawrence, is that correct?

20 JUROR NUMBER 53: Yes, sir.

21 THE COURT: All right. I'll see what I can do to
22 help you if possible.

23 Anyone else? All right.

24 Is there any member of the jury panel who feels they
25 have a physical disability that would prevent you from

1 sitting through a 5-day jury trial? Now as I mentioned in
2 response to one of the other juror's comments, if you need
3 a recess, need a break, just raise your hand and you'll
4 receive it. We'll do everything we can to accommodate
5 your personal needs. Is there anyone who feels they have
6 such a disability?

7 Is there anyone here who feels they would have a
8 problem seeing or hearing the evidence as it's presented
9 in this case?

10 Anyone here feel they would have a problem
11 understanding the English language that would make you
12 uncomfortable in sitting as a juror in the case?

13 Now, ladies and gentlemen, is there any member of the
14 jury panel who has any interest to the outcome of this
15 case other than making sure that justice is done and that
16 the verdict is consistent with the law and the evidence?

17 Is there any member of the jury panel who has ever
18 served as a juror in a state or federal court, criminal or
19 civil case, in Virginia or elsewhere? In other words,
20 bottom line, have you ever served as a juror in any case?

21 All right. Yes, ma'am. Juror Number 1.

22 JUROR NUMBER 1: Marcia Adams. Number 1. It was in
23 (inaudible).

24 THE COURT: I can't hear you.

25 JUROR NUMBER 1: Marcia Adams. And I served in

1 Colonial Heights.

2 THE COURT: Was that a criminal or civil case,
3 Ms. Adams?

4 JUROR NUMBER 1: It was a criminal case.

5 THE COURT: All right. Ms. Adams, anything about
6 that experience that would affect your ability to be fair
7 and impartial in this case, ma'am?

8 JUROR NUMBER 1: No.

9 THE COURT: All right. Very well.

10 Anyone else on that same row?

11 Lady in the next row. Yes, ma'am.

12 JUROR NUMBER 24: Number 24. Kim Jones.

13 THE COURT: All right. Ms. Jones, where did you
14 serve?

15 JUROR NUMBER 24: I served in Richmond.

16 THE COURT: Here in the City? City of Richmond?

17 JUROR NUMBER 24: It was.

18 THE COURT: All right. How long ago was that?

19 JUROR NUMBER 24: Fifteen years ago.

20 THE COURT: Civil or criminal case, if you remember?

21 JUROR NUMBER 24: I'm going to say it was a criminal
22 case.

23 THE COURT: Anything about that experience,
24 Ms. Jones, that would affect your ability to be fair and
25 impartial here?

JUROR NUMBER 24: No, sir.

THE COURT: Thank you very much.

Anyone else on this side? Yes, ma'am. Lady in the next row.

JUROR NUMBER 41: Temple Stewart. Number 41. And I served as a juror in Chesterfield.

THE COURT: How long ago was that, Ms. Stewart?

JUROR NUMBER 41: I believe it was in '94 or '95. And it was a criminal case.

THE COURT: Anything about that experience that would affect your ability to be fair and impartial today?

JUROR NUMBER 41: No, sir.

THE COURT: All right.

Anyone else on this side? The gentleman. Yes, sir.

JUROR NUMBER 39: Number 39. Doug Snell. I served on a jury in Florida 20 years ago, and on a jury in Colorado Springs 15 years ago.

THE COURT: Were they civil or criminal cases, if you can recall, Mr. Snell?

JUROR NUMBER 39: Both of them were criminal. One was drunk driving, and a theft.

THE COURT: Anything about those experiences that would affect your ability to be fair and impartial today?

JUROR NUMBER 39: No.

THE COURT: Okay. Thank you very much.

1 Anyone else on this side over here?

2 All right. On this side. Gentleman on the front
3 row.

4 JUROR NUMBER 16: Number 16. James Folk. I served
5 as a juror 40 years ago in a criminal case in Texas
6 District Court.

7 THE COURT: In a District Court in Texas?

8 JUROR NUMBER 16: Yes.

9 THE COURT: And you say it was a criminal case?

10 JUROR NUMBER 16: Criminal case.

11 THE COURT: Anything about that experience, sir, that
12 would affect your ability to be fair and impartial?

13 JUROR NUMBER 16: Not at all.

14 THE COURT: All right. Very well.

15 Lady on the next row. Yes, ma'am.

16 JUROR NUMBER 31: My name is Martha Pratt. Juror
17 Number 31. I served on a jury 10 years ago in
18 Fredericksburg, Virginia.

19 THE COURT: In Fredericksburg, Virginia. Was that
20 criminal or civil?

21 JUROR NUMBER 31: It was civil.

22 THE COURT: Anything about that experience that would
23 affect your ability to be fair and impartial today?

24 JUROR NUMBER 31: No.

25 THE COURT: Okay. Thank you.

1 Yes, ma'am. Lady on the front row.

2 JUROR NUMBER 13: Sharon Dickens. Juror Number 13.

3 It was about 20 years ago, and it was criminal.

4 THE COURT: What jurisdiction was that?

5 JUROR NUMBER 13: It was Richmond.

6 THE COURT: Here in the City of Richmond?

7 JUROR NUMBER 13: Yes, sir.

8 THE COURT: Anything about that experience,
9 Ms. Dickens, that would affect your ability to be fair and
10 impartial today?

11 JUROR NUMBER 13: No, sir.

12 THE COURT: Okay. Thank you very much.

13 Anyone else? The gentleman on the third row.

14 JUROR NUMBER 44: Number 44. Brian Wickline. I
15 served as a juror last year or the year before for the
16 City of Hopewell, criminal case.

17 THE COURT: City of Hopewell. Did you say it was a
18 criminal case?

19 JUROR NUMBER 44: Yes, sir.

20 THE COURT: Anything about that experience that would
21 affect your ability to be fair and impartial today?

22 JUROR NUMBER 44: No, sir.

23 THE COURT: All right.

24 Anyone else? Yes, sir. Gentleman next to you.

25 JUROR NUMBER 46: Number 46. Richard Williams. New

1 Kent County, grand jury, 11 years ago, civil case.

2 THE COURT: All right. I was going to ask a separate
3 question about grand jurors, but since you're on your feet
4 I'll ask you the question now. Obviously that is a
5 criminal proceeding and it is not one that indicts. It
6 just simply determines whether there is sufficient
7 evidence to bring forth a charge. Is there anything about
8 that experience that would affect your ability,
9 Mr. Williams, to be fair and impartial in this case?

10 JUROR NUMBER 46: No, sir.

11 THE COURT: All right. Thank you very much.

12 Anyone else? Did I miss somebody?

13 Speaking of grand juries, is there anyone else
14 besides Mr. Williams who has served on a grand jury? A
15 grand jury is an investigative body that hears the
16 government's side of the case to see whether or not the
17 evidence is sufficient to bring forth an indictment in the
18 case. Anybody serve as a grand juror?

19 Yes, ma'am.

20 JUROR NUMBER 12: Lori Dameron. Number 12. Probably
21 six years ago in Middlesex County.

22 THE COURT: Middlesex County, Virginia. Anything
23 about that experience, Ms. Dameron, that would affect your
24 ability to be fair and impartial today?

25 JUROR NUMBER 12: No, sir.

1 THE COURT: All right. Thank you.

2 Is there any member of the jury panel who themselves,
3 or an immediate member of their family, have served as a
4 law enforcement officer, deputy sheriff, state trooper,
5 FBI, DEA agent, U.S. Marshal?

6 All right. Yes, ma'am.

7 JUROR NUMBER 42: Edwinna Stinnett. My husband --

8 THE COURT: Your number?

9 JUROR NUMBER 42: Number 42.

10 THE COURT: Okay. Yes, ma'am.

11 JUROR NUMBER 42: He's been with the State Police for
12 42 years.

13 THE COURT: He's been with the State Police for 42
14 years?

15 JUROR NUMBER 42: Uh-huh.

16 THE COURT: Do you have occasion, Ms. Stinnett, to
17 talk to your husband about law enforcement issues, or the
18 law, or issues like that?

19 JUROR NUMBER 42: I do.

20 THE COURT: I'm sure you do. Just wanted to inquire.
21 Nothing wrong with that. Just want to know whether or not
22 any of those conversations, or your relationship with your
23 husband, would affect your ability to be fair and
24 impartial in this case?

25 JUROR NUMBER 42: I don't know. I probably am

1 programmed a little bit towards not being so objective.

2 THE COURT: Well, I want you to be. This is an
3 important case, and if you feel uncomfortable because of
4 your relationship with your husband's service with the
5 State Police or your conversations, just say so.

6 JUROR NUMBER 42: Okay. I probably do.

7 THE COURT: Okay. That's fair. Thank you,
8 Ms. Stinnett.

9 Anyone else? Yes, ma'am.

10 JUROR NUMBER 5: Number 5. Carolyn Blakelock. My
11 brother-in-law is chief of police in my home town in Ohio.

12 THE COURT: All right. Do you have any discussions
13 with him about law enforcement or legal issues?

14 JUROR NUMBER 5: Not regularly. No.

15 THE COURT: Anything about that relationship, or your
16 conversations with him, that would affect your ability to
17 be fair and impartial today?

18 JUROR NUMBER 5: No. I don't think so.

19 THE COURT: Thank you very much.

20 Another lady. I'll take the lady in the -- go ahead.
21 You're up.

22 JUROR NUMBER 37: Stacy Jones Slusser. Number 37.

23 THE COURT: Number 37. Okay.

24 JUROR NUMBER 37: My brother has been a lieutenant in
25 the Henrico County Police for the last 24 years.

1 THE COURT: Okay. Have you discussed law
2 enforcement, police issues, legal issues with him?

3 JUROR NUMBER 37: Not in depth.

4 THE COURT: Anything about that relationship, or any
5 of your conversations with him, that you feel would affect
6 your ability to be fair and impartial in this case?

7 JUROR NUMBER 37: No.

8 THE COURT: Thank you, Ms. Slusser.

9 All right. There was another lady. Yes, ma'am. On
10 the second row. Excuse me. First row. I need stronger
11 glasses.

12 JUROR NUMBER 6: Jury Number 6. Rachel Bondurant.
13 My brother-in-law was a City of Richmond police officer.

14 THE COURT: Is he still with that police department?

15 JUROR NUMBER 6: No. He had an accident which didn't
16 allow him to do his job anymore.

17 THE COURT: All right. Did you discuss law
18 enforcement, police issues with him?

19 JUROR NUMBER 6: No.

20 THE COURT: Anything about that relationship with him
21 that would affect your ability to be fair and impartial?

22 JUROR NUMBER 6: No.

23 THE COURT: All right. Thank you very much.

24 Anyone else on this side? Yes, sir.

25 JUROR NUMBER 28: Number 28. Sam Kothman. My

1 brother-in-law was a Baltimore County police detective.

2 THE COURT: Did you discuss police issues with him,
3 law enforcement, legal issues?

4 JUROR NUMBER 28: No.

5 THE COURT: Anything about that relationship that
6 would in any way affect your ability to be fair and
7 impartial today?

8 JUROR NUMBER 28: No, sir.

9 THE COURT: Thank you.

10 Anybody else on this side? All right.

11 Switching to this side. Gentleman on the front row.

12 JUROR NUMBER 15: Kevin Faubion. Juror 15. My
13 brother is a police officer in Suffolk County.

14 THE COURT: Suffolk County, Virginia?

15 JUROR NUMBER 15: Yes, sir.

16 THE COURT: Anything about -- well, do you discuss
17 law enforcement and police issues with him?

18 JUROR NUMBER 15: Occasionally. But not in depth.

19 THE COURT: Anything about those conversations, or
20 your relationship with him, that would affect your ability
21 to be fair and impartial?

22 JUROR NUMBER 15: No, sir.

23 THE COURT: Thank you very much.

24 Anyone else on that row? Yes, sir. Gentleman on the
25 end of the row.

1 JUROR NUMBER 18: Juror 18. Kevin Goldsmith. I have
2 a brother-in-law that is a police officer in Prince George
3 County, Virginia, and a brother-in-law that is a police
4 officer in Las Vegas Metro Police in Las Vegas, Nevada.

5 THE COURT: All right. Same questions I've asked the
6 other folks. Do you have occasion to discuss law
7 enforcement and legal issues with them?

8 JUROR NUMBER 18: Nothing past casual.

9 THE COURT: Is there anything about those
10 relationships that you feel would make you less than
11 completely fair and impartial in this case?

12 JUROR NUMBER 18: No, sir.

13 THE COURT: All right. Thank you.

14 Yes, sir. The gentleman.

15 JUROR NUMBER 43: Juror Number 43. Stuart Webel. I
16 have a brother who's a captain at the Pamunkey Regional
17 Jail. And I have a brother-in-law who's an investigator
18 with the State Police.

19 THE COURT: All right. Well, I was going to ask
20 separately about correctional officers, but since you've
21 responded, is it your brother-in-law that is a
22 correctional officer?

23 JUROR NUMBER 43: My brother.

24 THE COURT: Your brother is a correctional officer.
25 Do you discuss legal issues with him?

JUROR NUMBER 43: Goings on at the jail sometimes.

THE COURT: All right. And is it your brother who's a State Trooper?

JUROR NUMBER 43: Brother-in-law.

THE COURT: Your brother-in-law. Do you have occasion to discuss with him criminal justice type of issues, or legal issues?

JUROR NUMBER 43: On occasion.

THE COURT: Anything about those conversations with either of those gentlemen that would affect your ability to be fair and impartial today?

JUROR NUMBER 43: I don't think so.

THE COURT: Well, I want you to search your soul to make sure.

JUROR NUMBER 43: No.

THE COURT: Okay. Very good. Thank you, sir.

Yes, ma'am.

JUROR NUMBER 48: Juror Number 48. Shanna Wiseman. I don't know if this applies or not. My mom is an animal control warden in Dinwiddie County.

THE COURT: All right.

JUROR NUMBER 48: But the answers are no, sir. But she's law enforcement.

THE COURT: Well, at least you're paying attention. I'll give you credit for that. All right. Very well.

1 Anybody else? All right. Yes, ma'am.

2 JUROR NUMBER 41: Temple Stewart. Number 41. My
3 sister just retired from the federal prison as a
4 correctional officer for 30 years.

5 THE COURT: All right. And do you have occasion to
6 discuss any legal or law enforcement issues with her?

7 JUROR NUMBER 41: Rarely. And I don't think it
8 would.

9 THE COURT: It would not affect your ability to be
10 fair and impartial?

11 JUROR NUMBER 41: No, sir.

12 THE COURT: Okay. Very well. Thank you very much.

13 Since a number of people have already responded, you
14 need not respond again. Is there anyone here who has not
15 responded who has a member of their family who is involved
16 in the correctional field either as a deputy sheriff, as a
17 correctional officer with the United States Bureau of
18 Prisons, or any kind of lockup or correctional facility
19 that has not responded?

20 Yes, sir. Number 2.

21 JUROR NUMBER 2: Juror Number 2. Carroll Skipwith.
22 I have a cousin that's a deputy sheriff in Mecklenburg
23 County.

24 THE COURT: Do you discuss law enforcement or
25 criminal justice or correctional issues with him?

JUROR NUMBER 2: No, sir.

THE COURT: Anything about that relationship that you think would affect your ability to be fair and impartial?

JUROR NUMBER 2: No, sir.

THE COURT: All right.

Anyone else on this side? Yes, sir. Gentleman in the back.

JUROR NUMBER 46: Number 46. Richard Williams. I guess it would be my niece's fiance. To the best of my knowledge, a contractor to the government as far as illegal aliens, detainment. He's a guard there.

THE COURT: Okay. Anything about -- do you discuss law -- this obviously is not an immigration case. Do you discuss any other law enforcement issues with him?

JUROR NUMBER 46: No, sir. Rarely see them.

THE COURT: Would that relationship affect your ability to be fair and impartial in any way in this case, Mr. Williams?

JUROR NUMBER 46: No, sir.

THE COURT: Thank you.

Anyone else?

Is there any member of the jury panel who themselves, or an immediate member of their family, is a prosecutor very much like Mr. Gill here who presents the government's side of the case in court?

1 Is there any member of the jury panel who themselves,
2 or an immediate member of their family, works for the
3 United States Department of Justice in any capacity?

4 Yes, sir.

5 JUROR NUMBER 12: Juror Number 16. James Folk. My
6 daughter is a lawyer for the Office of the Controller in
7 Denver, Colorado.

8 THE COURT: All right. I don't know that that's with
9 the Department of Justice, but it's close enough. Do you
10 ever discuss law or legal issues with her, Mr. Folk?

11 JUROR NUMBER 12: I do not.

12 THE COURT: Anything about that relationship that
13 would affect your ability to be fair and impartial today?

14 JUROR NUMBER 12: No. Not at all.

15 THE COURT: Thank you.

16 Is there any member of the jury panel who themselves,
17 or an immediate member of their family, is a forensic
18 scientist? Someone who examines evidence for the purpose
19 of giving expert testimony in criminal cases?

20 Is there any member of the jury panel who themselves,
21 or an immediate member of their family, serves in any
22 office of the inspector general, someone that conducts
23 internal investigations within agencies for violations of
24 the law or ethical violations?

25 Is there any member of the jury panel, or member of

1 their immediate family, who is involved in the publication
2 of any kind of legal journal?

3 Is there any member of the jury panel who themselves,
4 or an immediate member of their family, is employed as a
5 security officer or in the field of security?

6 Yes, ma'am.

7 JUROR NUMBER 6: My husband -- oh, Rachel Bondurant.
8 Juror Number 6. My husband is a nuclear security officer.

9 THE COURT: Okay. Obviously that is a law
10 enforcement type of position.

11 JUROR NUMBER 6: Okay.

12 THE COURT: So have you discussed any criminal
13 justice or law enforcement issues with him?

14 JUROR NUMBER 6: No.

15 THE COURT: Anything about his job that would affect
16 your ability to be fair and impartial today?

17 JUROR NUMBER 6: No, sir.

18 THE COURT: Thank you.

19 JUROR NUMBER 6: Uh-huh.

20 THE COURT: Anyone else?

21 Ladies and gentlemen, I'd ask you to listen to the
22 entire question before you respond. Is there anyone here
23 who feels they would give the testimony of a law
24 enforcement officer more weight and more value than any
25 other witness not because you've listened to all the

1 testimony and feel that the testimony is more believable,
2 but simply because they're a law enforcement officer you
3 feel they're entitled to more weight and credibility than
4 any other witness? Anyone have that viewpoint?

5 Is there any member of the jury panel who themselves,
6 or an immediate member of their family, have any kind of
7 legal training as a lawyer, paralegal, secretary?

8 I know Mr. Folk you've already responded, so you need
9 not again.

10 Juror Number 1. Yes, ma'am.

11 JUROR NUMBER 1: Juror Number 1. Marcia Adams. My
12 son and daughter-in-law are both attorneys in
13 Massachusetts.

14 THE COURT: Do they do criminal law?

15 JUROR NUMBER 1: No. My son does not work in the
16 legal field, but my daughter-in-law does. She does
17 bankruptcy, and other stuff like that.

18 THE COURT: Okay. Ms. Adams, anything about that
19 relationship that would affect your ability to be fair and
20 impartial in this case?

21 JUROR NUMBER 1: No.

22 THE COURT: Do you discuss legal type issues with
23 them?

24 JUROR NUMBER 1: No.

25 THE COURT: Okay. Thank you.

JUROR NUMBER 1: Thank you.

THE COURT: Anybody else on that front row?

Yes, ma'am.

JUROR NUMBER 8: Victoria Bragunier. Juror Number 8.

I'm an attorney.

THE COURT: Could I ask you where you practice?

JUROR NUMBER 8: I practice in Maryland and here in Virginia.

THE COURT: All right. Do you have a criminal practice?

JUROR NUMBER 8: Not predominantly. No. I've done -- in Maryland I did small criminal matters. Here in Virginia it's been corporate law.

THE COURT: A couple of questions. Do you feel that there's anything about your occupation, or the criminal cases that you have handled in the past, that would affect your ability to be fair and impartial in this case?

JUROR NUMBER 8: No.

THE COURT: Obviously you are schooled in the law and you have had extensive legal training. You understand that you must base your verdict on the law as I give to you in the instructions. That's what governs the case. Not what you have learned about the law externally. Can you abide by that?

JUROR NUMBER 8: Yes.

1 THE COURT: Okay. I'm going to hold you to it.

2 JUROR NUMBER 8: Yes, sir.

3 THE COURT: Thank you, now.

4 Anybody else on this side? Yes, ma'am.

5 JUROR NUMBER 52: Virginia James. Number 52. My son
6 is a lawyer here in Richmond, Virginia.

7 THE COURT: All right. Does he do criminal work?

8 JUROR NUMBER 52: No. He does primarily securities,
9 mergers and acquisitions.

10 THE COURT: Do you have occasion to discuss with him
11 legal issues?

12 JUROR NUMBER 52: He does not discuss his legal
13 issues with me.

14 THE COURT: All right. Is there anything about that
15 relationship that would affect your ability to be fair and
16 impartial?

17 JUROR NUMBER 52: No.

18 THE COURT: Thank you very much.

19 The gentleman. Yes, sir.

20 JUROR NUMBER 28: Number 28. Sam Kothman. My
21 brother-in-law is a judge in Chesapeake, Virginia.

22 THE COURT: Circuit judge or general district court
23 judge, or do you know?

24 JUROR NUMBER 28: I think a circuit court judge.

25 THE COURT: Do you have occasion to discuss legal

1 type issues with him from time to time?

2 JUROR NUMBER 28: No, sir.

3 THE COURT: Anything about that relationship that
4 would in any way affect your ability to be fair and
5 impartial here today?

6 JUROR NUMBER 28: No, sir.

7 THE COURT: Thank you very much. You may be seated.

8 Anyone else on this side? All right.

9 On this side over here? Yes, sir.

10 JUROR NUMBER 35: Juror Number 35. Paul Sixt. My
11 wife has worked as a paralegal and is currently going to
12 school to get --

13 THE COURT: I couldn't hear the latter part of your
14 answer.

15 JUROR NUMBER 35: She's worked as a paralegal, and is
16 currently enrolled in college to get her certificate as
17 well.

18 THE COURT: Do you discuss law and legal issues with
19 her from time to time?

20 JUROR NUMBER 35: Not in depth.

21 THE COURT: All right. Anything about that
22 relationship, or any conversations you've had with her,
23 that you feel would affect your ability to be fair and
24 impartial in this case?

25 JUROR NUMBER 35: No, sir.

1 THE COURT: All right. Thank you very much. You can
2 have a seat.

3 Anybody else? Yes, sir. Gentleman in the front,
4 Mr. Folk.

5 JUROR NUMBER 16: Number 16. I should say that my
6 son-in-law is also a practicing -- in private practice in
7 Colorado.

8 THE COURT: In Colorado. Does he do criminal work,
9 Mr. Folk, do you know?

10 JUROR NUMBER 16: Not that I'm aware of.

11 THE COURT: Have you discussed any criminal issues
12 with him?

13 JUROR NUMBER 16: No.

14 THE COURT: Anything about that relationship that you
15 feel would affect your ability to be fair and impartial
16 today?

17 JUROR NUMBER 16: Not at all.

18 THE COURT: All right.

19 Ladies and gentlemen, as I mentioned to you, this is
20 basically an alleged fraud case. Is there any member of
21 the jury panel who has been the victim of fraudulent
22 activity, either yourself or a member of your family?

23 Yes, ma'am.

24 JUROR NUMBER 51: Alberta Christopherson. Number 51.
25 My husband had his identity stolen.

1 THE COURT: And where did that occur?

2 JUROR NUMBER 51: It occurred in Florida and
3 Tennessee. And it took an act of Congress trying to get
4 it straight.

5 THE COURT: I understand. Believe me. Was there a
6 prosecution in that case?

7 JUROR NUMBER 51: No, because the person is currently
8 incarcerated. But I don't know if they'll prosecute when
9 he comes out.

10 THE COURT: Is there anything about that experience
11 that would affect your ability to be fair and impartial in
12 this case?

13 JUROR NUMBER 51: Possibly. Because, like I said, I
14 was the one that had to do all the leg work.

15 THE COURT: I fully understand. Thank you very much.

16 JUROR NUMBER 51: Thank you.

17 THE COURT: Anyone else?

18 Is there any member of the jury panel who themselves,
19 or an immediate member of their family, have been the
20 victim of any other type of criminal activity that you
21 feel might affect your ability to be fair and impartial in
22 this case?

23 Is there any member of the jury panel who themselves,
24 or an immediate of their family, have been either a victim
25 or a witness, or in any capacity involved in any kind of

1 criminal litigation?

2 Yes, ma'am. Ms. Adams. I don't need to know the
3 details.

4 JUROR NUMBER 1: I have a son who had a problem.

5 THE COURT: Okay. Would that affect your ability to
6 be fair and impartial in this case?

7 JUROR NUMBER 1: No.

8 THE COURT: All right. Thank you very much.

9 Yes, ma'am.

10 JUROR NUMBER 51: Juror 51. Alberta Christophersen.
11 I have a son that had a problem.

12 THE COURT: Anything about that experience that would
13 affect your ability to be fair and impartial today?

14 JUROR NUMBER 51: No.

15 THE COURT: Okay. Thank you very much.

16 Yes, ma'am. Lady on the second row.

17 JUROR NUMBER 20: Juror Number 20. Tanicka
18 Heiskell-Stokes. I had a husband who had a problem.

19 THE COURT: All right. Would that affect your
20 ability to be fair and impartial in this case?

21 JUROR NUMBER 20: No.

22 THE COURT: Thank you very much.

23 Anyone else? Gentleman next to you.

24 JUROR NUMBER 22: Number 22. Thomas Izzo. Do I say
25 I had a problem?

1 THE COURT: I don't need to know the details. Would
2 it affect your ability to be fair and impartial in this
3 case?

4 JUROR NUMBER 22: No.

5 THE COURT: All right. Thank you.

6 Yes, sir.

7 JUROR NUMBER 39: Number 39. Doug Snell. I was a
8 witness in a property damage case.

9 THE COURT: Anything about that experience that would
10 affect your ability to be fair and impartial today?

11 JUROR NUMBER 39: No, sir.

12 THE COURT: Okay.

13 Anybody else on this side? Yes, ma'am.

14 JUROR NUMBER 38: Number 38. Carol Schumacher Smith.
15 My student has an issue ongoing right now.

16 THE COURT: You're a student?

17 JUROR NUMBER 38: Yes. My student. I work with
18 special ed at Varina High School.

19 THE COURT: I see. Anything about that situation
20 that would affect your ability to be fair and impartial
21 today in this case?

22 JUROR NUMBER 38: No, sir. It shouldn't.

23 THE COURT: Thank you.

24 This side over here. Mr. Folk.

25 JUROR NUMBER 16: James Folk. Number 16. When I was

1 employed in the corporation there was a theft of some
2 monies associated with a department that I managed. They
3 were prosecuted.

4 THE COURT: They were prosecuted?

5 JUROR NUMBER 16: Yes.

6 THE COURT: And were you a witness in that case?

7 JUROR NUMBER 16: By deposition. Not on the stand.

8 THE COURT: Anything about that experience, Mr. Folk,
9 that would affect your ability to be fair and impartial in
10 this case?

11 JUROR NUMBER 16: Not at all.

12 THE COURT: Thank you, sir.

13 Gentleman in the back.

14 JUROR NUMBER 46: Number 46. Richard Williams. My
15 wife had a minor altercation.

16 THE COURT: Anything about that experience that would
17 affect your ability to be fair and impartial here today?

18 JUROR NUMBER 46: No, sir.

19 THE COURT: All right. Thank you.

20 Anyone else?

21 Ladies and gentlemen, there may be some evidence in
22 this case involving firearms. Not that the crime was
23 committed with a firearm, but there is going to perhaps be
24 some evidence concerning firearms in the case. Firearms
25 have had various affects on various individuals during the

1 course of our society, and people have different views.

2 And my question of you is this: Is there anyone here who
3 has such strong views about firearms that they could not
4 be fair and impartial in this case?

5 Is there any member of the jury panel who is a member
6 of any kind of organization that either supports or
7 opposes firearms that you think would affect your ability
8 to be fair and impartial just by virtue of you being a
9 member?

10 Excuse me. Yes, ma'am.

11 JUROR NUMBER 51: Juror 51. My husband is a member
12 of the NRA.

13 THE COURT: Well, that's fine. But the question is
14 whether or not that would affect your ability to be fair
15 and impartial today?

16 JUROR NUMBER 51: No, I don't think so.

17 THE COURT: All right. Thank you for your very
18 candid response.

19 Is there anyone else?

20 Is there any member of the jury panel who themselves,
21 or immediate member of their family, have any training in
22 the field of medicine or pharmacy such as an M.D., R.N.,
23 licensed practical nurse, doctor of pharmacy? Any of
24 those.

25 All right, we'll start with you, Ms. Adams. You're

1 an R.N., right?

2 JUROR NUMBER 1: I'm an R.N.

3 THE COURT: This evidence will discuss some research
4 in the area of AIDS and HIV. And I'm going to talk about
5 that in more detail in just a moment. But having been a
6 registered nurse, do you think you could be fair and
7 impartial?

8 JUROR NUMBER 1: Yes, I can.

9 THE COURT: All right.

10 Yes, ma'am.

11 JUROR NUMBER 6: Juror Number 6. Rachel Bondurant.
12 My mother is an R.N.

13 THE COURT: Same question. Would you be able to be
14 fair and impartial in this case?

15 JUROR NUMBER 6: Yes, sir.

16 THE COURT: Okay. Very good.

17 I think the lady in back. Yes, ma'am.

18 JUROR NUMBER 53: Fifty-three. Roxanne Lawrence.
19 I'm an L.P.N.

20 THE COURT: Pardon?

21 JUROR NUMBER 53: I'm an L.P.N.

22 THE COURT: You're an L.P.N. Okay. As I mentioned
23 to Ms. Adams, there will be some evidence in the case
24 concerning perhaps AIDS and HIV research. Anything about
25 your training, your education, or your experience that

1 would affect your ability to be fair and impartial in this
2 case?

3 JUROR NUMBER 53: No, sir.

4 THE COURT: Thank you very much.

5 All right. Lady on the second row. Yes, ma'am.

6 JUROR NUMBER 31: Martha Pratt. Juror Number 31. My
7 sister has been an R.N. for over 30 years.

8 THE COURT: Have you ever had a chance to discuss
9 with her HIV or AIDS?

10 JUROR NUMBER 31: Yeah. We talk about stuff.

11 THE COURT: Anything about those discussions, or your
12 relationship with her, that would affect your ability to
13 be fair and impartial here today?

14 JUROR NUMBER 31: No.

15 THE COURT: Thank you.

16 Yes. Mr. Folk.

17 JUROR NUMBER 16: James Folk. Number 16. Probably
18 tangential, but I'm a practicing EMT with Spottsylvania
19 County as a volunteer.

20 THE COURT: Okay. Anything about your training or
21 your experience that would affect your ability to be fair
22 and impartial here today?

23 JUROR NUMBER 16: Not at all.

24 THE COURT: Okay. Anyone else?

25 Is there any member of the jury panel, or immediate

1 member of their family, that is currently or in the past
2 been involved in any form of HIV or AIDS research
3 professionally or academically?

4 Yes, ma'am.

5 JUROR NUMBER 6: Yeah. I guess I should have
6 elaborated. Rachel Bondurant. Juror Number 6. My mom
7 for 15 years worked for an infectious disease doctor who
8 specialized in HIV.

9 THE COURT: Well, the question again, Ms. Bondurant,
10 would be whether or not it would affect your ability to be
11 fair and impartial?

12 JUROR NUMBER 6: No. No.

13 THE COURT: All right. And once again I may have
14 asked you this, and if I did I apologize to you, have you
15 discussed HIV and AIDS research with your mother?

16 JUROR NUMBER 6: No, sir.

17 THE COURT: Okay.

18 Is there any member of the jury panel who themselves,
19 or an immediate member of their family, is employed by or
20 owns stock in a company or organization that you're aware
21 of that does HIV or AIDS-related research or treatment?

22 Is there any member of the jury panel who themselves,
23 or an immediate member of their family, holds any patents
24 relating to HIV or AIDS research?

25 I probably already covered this, but I want to be

1 careful to make a good record here. Is there any member
2 of the jury panel who themselves, or an immediate member
3 of their family with the exception of Ms. Bondurant here,
4 who has treated or cared for AIDS patients?

5 Yes, ma'am.

6 JUROR NUMBER 53: Juror 53. Roxanne Lawrence. I
7 cared for a patient that had AIDS.

8 THE COURT: Would that affect your ability to be fair
9 and impartial in this case today?

10 JUROR NUMBER 53: No.

11 THE COURT: Okay. Thank you.

12 Let me ask a much more general question here. Is
13 there any member of the jury panel, or member of your
14 family or circle of friends, who have been affected by the
15 HIV or AIDS virus either directly or indirectly that you
16 think may affect your ability to be fair and impartial in
17 this case?

18 Is there any member of the jury panel who has any
19 personal views about AIDS or HIV positive individuals that
20 you think could affect your ability to be fair and
21 impartial in this case?

22 Any member of the jury panel have an advanced degree
23 in the field of biology or related type of field?

24 Any member of the jury panel employed in the
25 securities industry as either a broker, counselor,

1 investment adviser, corporate stock issuer, or regulator
2 or investigator?

3 Is there any member of the jury panel who conducts
4 any kind of fraud investigations?

5 Yes, ma'am.

6 JUROR NUMBER 20: Tanicka Heiskell-Stokes. Juror 20.
7 I am currently a supervisor of fraud investigations with
8 Capital One.

9 THE COURT: For Capital One?

10 JUROR NUMBER 20: Yes, sir.

11 THE COURT: Are you actively involved in the
12 investigations?

13 JUROR NUMBER 20: I supervise.

14 THE COURT: You oversee other investigators, is that
15 right?

16 JUROR NUMBER 20: Yes, sir. Yes, sir.

17 THE COURT: Okay. Now, knowing that there are fraud
18 and fraud-related charges in this case, would that affect
19 your ability to be fair and impartial in this case in any
20 way?

21 JUROR NUMBER 20: No, sir, it would not.

22 THE COURT: Thank you very much.

23 Anyone else? Yes, ma'am.

24 JUROR NUMBER 9: Juror Number 9. Celia Broadus. I'm
25 a professional as a Certified Public Accountant. And

1 during audit and attestation services, I do perform fraud
2 types of internal controls and investigations.

3 THE COURT: Ms. Broadus, anything about your
4 educational background or your professional experiences
5 that would affect your ability to be fair and impartial in
6 this case?

7 JUROR NUMBER 9: No, sir.

8 THE COURT: Thank you, Ms. Broadus. You may have a
9 seat.

10 Yes, sir. Gentleman in the back.

11 JUROR NUMBER 39: Juror 39. Doug Snell. I spent a
12 couple years in the military investigating contract
13 quality assurance with product fraud.

14 THE COURT: Anything about those experiences,
15 Mr. Snell, that would affect your ability to be fair and
16 impartial in this case?

17 JUROR NUMBER 39: No, sir.

18 THE COURT: Thank you very much.

19 Anyone else on this side? Yes, ma'am. Lady in the
20 back row.

21 JUROR NUMBER 54: I'm Andrea Rich. Juror 54. I
22 previously work at Capital One in the area of
23 transactional fraud and identity fraud.

24 THE COURT: How long did you do that, if I might ask?

25 JUROR NUMBER 54: For eight years.

1 THE COURT: Anything about those experiences that
2 would affect your ability to be fair and impartial here
3 today?

4 JUROR NUMBER 54: No, sir.

5 THE COURT: Thank you for your response.

6 Anyone else?

7 Is there any member of the jury panel who themselves,
8 or an immediate member of their family, is employed by the
9 U.S. Securities and Exchange Commission or the Virginia
10 State Corporation Commission?

11 Is there any member of the jury panel who themselves,
12 or an immediate member of their family, is employed by a
13 start-up company? One that's just getting started.

14 Yes, ma'am.

15 JUROR NUMBER 34: Number 34. Logan Sale. I guess it
16 was last Monday I started working for a start-up company
17 designing a mobile app.

18 THE COURT: All right. This case will involve
19 evidence that at one point in time Mr. Harris' company was
20 a start-up company. Would the fact that you're employed
21 by a start-up company in any way affect your ability to be
22 fair and impartial in this case?

23 JUROR NUMBER 34: No, sir.

24 THE COURT: Okay. Thank you.

25 Anybody else?

1 I think I've asked this question, but I'm going to
2 ask it again at the risk of being repetitious. Is there
3 anyone here who's ever applied for a patent? Okay.

4 I don't believe there has been a lot of publicity
5 about this case, but I want to be sure that perhaps you
6 haven't heard anything about it. Is there anyone here
7 who's heard anything about this case from any source
8 whatsoever, newspaper, beauty salon, barber shop, church,
9 anywhere? Okay.

10 Yes, ma'am. I'm sorry.

11 JUROR NUMBER 41: Temple Stewart. Juror Number 41.
12 I'm pretty sure I've heard something.

13 THE COURT: About this case?

14 JUROR NUMBER 41: Well, something with HIV and, you
15 know, someone trying to use that --

16 MR. WAGNER: Your Honor, may we approach on this?

17 THE COURT: Yes.

18 Hold on just one second.

19 MR. WAGNER: May we approach the Bench?

20 THE COURT: I'm going to have her come up to the
21 Bench. Let me have counsel come up to the Bench.

22 And if you would just come up just for a second.

23 Yes, ma'am.

24 Hold on just one moment.

25 (Bench conference held outside the hearing of the voir

1 dire panel.)

2 THE COURT: Mr. Wagner, does your client waive being
3 present at Bench appearances?

4 MR. WAGNER: He does.

5 THE COURT: Yes, ma'am. Tell us about it.

6 JUROR NUMBER 41: It was just briefly. I remember
7 hearing something on the news about someone starting a
8 company and using it with HIV, and using that to get
9 people to invest in it. So I don't -- I don't know if it
10 was a year ago, but I remember hearing about it. I don't
11 remember the name of the company, or anything like that.

12 THE COURT: Did you form any impression about the
13 guilt or innocence of the individual?

14 JUROR NUMBER 41: No. No.

15 THE COURT: Okay.

16 JUROR NUMBER 41: But I do remember hearing
17 something.

18 THE COURT: Okay. It was broadcast media, I assume,
19 Ms. Stewart?

20 JUROR NUMBER 41: Yes, sir.

21 MR. WAGNER: Do you know if it was TV or the
22 newspaper, radio?

23 JUROR NUMBER 41: Gosh. It wasn't the Internet
24 because I don't -- it had to have been either like -- I
25 don't know if it was NPR. That's the only radio that I

1 listen to. And, you know, I have the TV on sometimes, but
2 I don't know if it was radio or TV. But I do remember
3 hearing something briefly about it.

4 THE COURT: Okay. But you have no takeaway
5 impressions, is that correct?

6 JUROR NUMBER 41: No, sir.

7 THE COURT: All right.

8 Mr. Gill, any questions?

9 MR. GILL: No, Your Honor.

10 THE COURT: Ms. Stewart, thank you so much for coming
11 up.

12 (Bench conference concluded.)

13 THE COURT: Folks, I have a few more questions and
14 that should wrap this up. Before I do that, I'm going to
15 ask Mr. Gill to read the list of his witnesses to you, and
16 the question I will ask you ultimately is if you know any
17 of these folks.

18 MR. GILL: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 MR. GILL: Today with us is Special Agent Brad Gregor
21 who's with the Federal Bureau of Investigation. He'll be
22 a witness in this case.

23 This is Bill Ward. He's an investigator with the
24 State Corporation Commission, and may potentially be a
25 witness in the case.

1 And these are the other individuals on the United
2 States' witness list:

3 Rosalie Baker. And she is out of Northern Virginia
4 in the Maryland area.

5 Marcelo Bellato. He is from San Francisco,
6 California.

7 Erika Carrier from the Castleton, Virginia area and
8 also the Maryland area.

9 Russell Carrier from Castleton, Virginia.

10 Myranda Caudill, C-A-U-D-I-L-L, from Luray, Virginia.

11 Diane Desch, D-E-S-C-H, from the Richmond, Virginia
12 area.

13 David Evans from Portsmouth, Virginia.

14 Nicole Gentry. She is an officer in Fredericksburg,
15 Virginia.

16 Brian Hanlon, who's out of Washington, D.C. He works
17 with the U.S. Patent and Trademark Office.

18 Special Agent Tim Huff with the FBI. He's based out
19 of Fredericksburg.

20 Tim Kanagy who lives in West Virginia. He spells his
21 last name K-A-N-A-G-Y.

22 Peter McGivney, M-C-G-I-V-N-E-Y. He is with the
23 National Steeplechase Association out of Elkton, Maryland.

24 Major Joseph Newcomb. He is presently based out of
25 Hubert, North Carolina.

1 John Pinyerd. I'll spell his last name.

2 P-I-N-Y-E-R-D. Marietta, Georgia.

3 Sandra Raynor with RELS Title out of Front Royal,
4 Virginia.

5 Katie Ritter from Monkton, Maryland.

6 Special Agent Julio Tobar who is with the FBI out of
7 Denver, Colorado.

8 John, goes by Ted, Marosi. He's from Bay Village,
9 Ohio.

10 Steve or Steven Weiner from Marlton, New Jersey.

11 Cindy Williamson who's a financial analyst with the
12 National White Collar Crime Center right here in Richmond,
13 Virginia.

14 David Brandt who is with Brandt and Associates out of
15 Alexandria, Virginia.

16 Julie Hagan out of Poolesville, Maryland.

17 Dr. Colette Moussali, M-O-U-S-S-A-L-I. She is here
18 in Richmond, Virginia.

19 Patricia Lynn Payne from Fredericksburg, Virginia.

20 Lisa Reichwein, R-E-I-C-H-W-E-I-N, Fredericksburg,
21 Virginia.

22 And that concludes the list.

23 Thank you, Your Honor.

24 THE COURT: Yes, sir.

25 Any additional witnesses you wish to add to that,

1 Mr. Wagner?

2 MR. WAGNER: I do.

3 THE COURT: Go right ahead, sir.

4 MR. WAGNER: Good morning.

5 Dr. Rodney Sparks from Crozet, Virginia.

6 Bill Alshire from Luray, Virginia.

7 Possibly these names:

8 Janet Delcastillo.

9 John Brewbaker.

10 Anthony Voccia.

11 Lynn Payne.

12 Dr. Anne Prochera.

13 Frank Roth.

14 Jason Jenkins.

15 THE COURT: Is anyone on the jury panel acquainted
16 with any of the individuals that either Mr. Gill or
17 Mr. Wagner read to you?

18 Is there any member of the jury panel who believes
19 that just because this defendant was indicted by a grand
20 jury he must be guilty of something or he wouldn't be
21 here? Anyone have that view going into the case?

22 Is there any member of the jury panel who is sensible
23 to any prejudice whatsoever toward either the government
24 in this case or the defendant?

25 Is there any member of the jury panel who could not

1 apply the very fundamental proposition of law that
2 Mr. Harris is presumed to be innocent unless and until the
3 government proves his guilt beyond a reasonable doubt?
4 Anybody have any problem with that fundamental proposition
5 of law?

6 Is there anyone that feels the government's burden of
7 proof, namely beyond a reasonable doubt, is too high a
8 standard to hold the government to?

9 Now, ladies and gentlemen, I have no idea what
10 evidence, if any evidence, Mr. Harris intends to put on in
11 this case. But assuming for a moment that he decides to
12 put on no evidence, the law is very clear that you cannot
13 hold that against him or even consider it in your
14 deliberations. In that case, you must base your
15 deliberations strictly on the strength of the government's
16 case. Is there anyone here who could not apply that
17 principle of law?

18 Ladies and gentlemen, I confess to you I have asked
19 every possible question I can think of, and then a few,
20 but is there any other reason maybe I didn't touch on why
21 you feel you could not sit on this case and be fair and
22 impartial to both the United States and the defendant in
23 this case? Anything I forgot?

24 All right. Very good.

25 Let me ask counsel to approach the Bench please.

1 If you all will just sit back and relax for just a
2 second.

3 (Bench conference held outside the hearing of the voir
4 dire panel.)

5 THE COURT: Take a look at the following jurors, if
6 you would, and then we'll go through each individual one.

7 Number 2, wife's ill.

8 Number 5 has to go out of town for a meeting.

9 Number 34 has travel plans.

10 Number 37, she's ill today.

11 Forty-two could not be fair and impartial. Her
12 husband's a State Trooper.

13 Forty-five. She has to pick up her children at 3:00
14 in the afternoon.

15 I'm inclined to excuse those people for cause unless
16 you have some objection to it.

17 Mike?

18 MR. GILL: I do not, Your Honor.

19 MR. WAGNER: No, Your Honor.

20 THE COURT: All right. Okay.

21 I forgot Number 51 who said she couldn't be fair and
22 impartial. Any objection to those?

23 MR. GILL: No, sir.

24 MR. WAGNER: No, sir.

25 THE COURT: Do you have those okay?

1 THE CLERK: Yes, sir.

2 THE COURT: Mr. Wagner, any others, sir?

3 MR. WAGNER: I do want to raise some concerns. There
4 was one juror, and I believe it was 20, who is a
5 supervisor of fraud investigations for Capital One. I
6 think that because of that position that she should be
7 struck.

8 THE COURT: I saw nothing in her responses that would
9 disqualify her as a juror. She indicated unequivocally
10 she could be fair and impartial. So that motion is going
11 to have to be denied.

12 Any others?

13 MR. WAGNER: No, sir.

14 THE COURT: She indicated she worked for Capital One
15 for a number of years, but she didn't indicate it would
16 affect her ability to be fair and impartial, so I don't
17 think you've made a record on that. I'll have to deny it.

18 Mike?

19 MR. GILL: We have no motions for cause, Your Honor.

20 THE COURT: All right. Very well.

21 Are there any questions that I forgot to ask? I took
22 all your stuff and went through them. Did I miss
23 anything, gentlemen?

24 MR. GILL: You did not.

25 There's one thing, Your Honor.

1 THE COURT: Yes, sir.

2 MR. GILL: One of the witnesses I told them about,
3 Lisa Reichwein, the FBI told me she goes by Lisa Parker.
4 She's a radio personality. So if somebody can ask them if
5 they know a Lisa Parker, radio personality in
6 Fredericksburg, Virginia.

7 THE COURT: All right.

8 (Bench conference paused.)

9 THE COURT: Ladies and gentlemen, let me ask you one
10 additional question. Is there anyone here who knows a
11 radio personality in Fredericksburg by the name of --

12 Mr. Gill?

13 MR. GILL: Lisa Parker.

14 THE COURT: Lisa Parker. Do you know this
15 broadcaster on one of the local stations?

16 Okay. Thank you very much.

17 (Resuming Bench conference held outside the hearing of the
18 voir dire panel.)

19 THE COURT: Mr. Gill?

20 MR. GILL: Yes, sir.

21 MR. WAGNER: Yes, sir.

22 THE CLERK: Number 20. She didn't get taken out, did
23 she, Judge?

24 THE COURT: No, ma'am.

25 THE CLERK: Okay.

(Bench conference concluded.)

THE COURT: Ladies and gentlemen, we're now going to proceed with jury selection. It doesn't take long in Federal Court. What we'll do is this. We'll select 12 jurors, and then we'll select two alternates. So just bear with us. We will get started in just a second.

THE CLERK: As I call the names of the following jurors, if they would please come forward and take a seat in the jury box:

Juror Number 40, Laverna Noel Stallard.

Juror Number 28, Samuel Frank Kothman.

Juror Number 18, Kevin Thomas Goldsmith.

Juror Number 30, Khawar Mian.

Juror Number 27, Robert Anthony Kitusky.

Juror Number 50, Deborah Mayo Worten.

Juror Number 54, Andrea Crockett Rich.

Juror Number 16, James Bradley Folk.

Juror Number 20, Tanicka Heiskell-Stokes.

Juror Number 1, Marcia Ann Tatum Adams.

Juror Number 43, Stuart Philip Webel.

Juror Number 46, Richard Paul Williams, Jr.

As I call the names of the following jurors, if they would please step down and return to their seats in the courtroom:

Juror Number 20, Tanicka Heiskell-Stokes.

Juror Number 54, Andrea Crockett Rich.

Juror Number 46, Richard Paul Williams, Jr.

As I call the names of the following jurors, if they would come forward and take a seat in the jury box:

Juror Number 6, Rachel Weber Bondurant.

Juror Number 39, Douglas Harry Snell.

Juror Number 41, Temple Rene Stewart.

As I call the names of the following jurors, if they would please step down and return to their seats in the courtroom:

Juror Number 6, Rachel Weber Bondurant.

Juror Number 39, Douglas Harry Snell.

As I call the names of the following jurors, if they would please come forward and take a seat in the jury box:

Juror Number 52, Virginia Kent Dunn James.

Juror Number 24, Kimberly Lange Jones.

As a call the names of the following jurors, if they would please come forward and stand in front of the jury box:

Juror Number 4, Angela Sobert Arrington.

Juror Number 32, Randolph John Rowekamp.

THE COURT: What was that number again, Ms. Pizzini?

THE CLERK: Number 32, Your Honor.

THE COURT: Thank you.

THE CLERK: Juror Number 48, Shanna Marie Wiseman.

1 Juror Number 44, Brian Scott Wickline.

2 Juror Number 38, Carol Schumacher Smith.

3 Juror Number 17, Todd Everett Foster.

4 As I call the names of the following jurors, you may
5 return to your seats in the courtroom:

6 Juror Number 38, Carol Schumacher Smith.

7 Juror Number 32, Randolph John Rowekamp.

8 Juror Number 4, Angela Sobert Arrington.

9 Juror Number 48, Shanna Marie Wiseman.

10 THE COURT: Are there any issues concerning jury
11 selection that you want to bring to my attention at this
12 time, Mr. Gill?

13 MR. GILL: No, Your Honor.

14 THE COURT: Mr. Wagner?

15 MR. WAGNER: No, Your Honor.

16 THE COURT: All right. Finding the panel free from
17 exception, I'll ask the Clerk of the Court to administer
18 the oath.

19 THE CLERK: If the jury would please stand, raise
20 your right hand, and answer I shall to the oath about to
21 be given. If the defendant would also please stand.

22 You shall well and truly try, and a true deliverance
23 make between the United States and Michael F. Harris, the
24 defendant at the bar, whom you shall have in charge and a
25 true verdict give according to the evidence, so help you

1 God?

2 JURORS: I shall.

3 THE CLERK: Thank you.

4 THE COURT: Is there any reason why the balance of
5 the jury panel should not be excused at this time?

6 MR. WAGNER: No, Your Honor.

7 MR. GILL: No, Your Honor.

8 THE COURT: Ms. Pizzini, you may excuse the balance
9 of the jury.

10 THE CLERK: The remaining jurors may be excused. If
11 you need further information, or if you have questions,
12 you can go to Room 3000 on the third floor; otherwise, you
13 may leave directly from here.

14 THE COURT: Ladies and gentlemen, I once again want
15 to express my appreciation for your time and your service.
16 Without your presence here and the time that you take, our
17 system could not operate, and we don't forget that.

18 JURORS: Thank you.

19 THE COURT: Ladies and gentlemen, in just a few
20 minutes we're going to take a recess to allow you to get
21 situated back in the jury room and have a coke, glass of
22 water, a cup of coffee, or a cup of tea, but before we do
23 that I want to take a few minutes and kind of outline for
24 you how this case will proceed because you're going to
25 find that the way an actual courtroom works is sometimes

1 far different than what you see on some of those
2 television shows.

3 Now, ladies and gentlemen, when we get back, our
4 first order of business is what is known as opening
5 statements. And it allows counsel for both sides to
6 address you directly. And in their open comments, they
7 will explain to you what they think will and will not be
8 proven by the evidence in this case. Keep in mind that
9 nothing the lawyers tell you during either the opening
10 statement or final arguments is evidence in the case. The
11 evidence is the testimony and the documents and other
12 items we'll talk about here in just a minute.

13 Now, one of the principal offices of the opening
14 statement is to outline to you what the issues are in this
15 case, and how they will be addressed by both sides.
16 They'll also define for you the issues that you will have
17 to resolve later as a deliberating jury. It's kind of a
18 roadmap. It's a preview of coming attractions, but it's a
19 roadmap to help you in your analysis of the evidence and
20 in your deliberations.

21 Now, after the opening statements, the United States,
22 who has the burden of proof, will begin with its evidence.
23 As the United States puts its evidence on, the defense
24 will have the opportunity to cross-examine the
25 government's witnesses. At the close of the government's

1 case, if the defendant chooses to do so, remember he has
2 no obligation to introduce any evidence and if he doesn't
3 you can't even consider that, but if he does, the United
4 States will have the opportunity to cross-examine the
5 defense witnesses.

6 After the -- if the defendant puts on evidence,
7 because the government has the burden of proof, they will
8 have the additional opportunity to put on rebuttal
9 evidence. Rebuttal evidence is very narrowly focused
10 evidence. It's not a chance to kind of go back and reopen
11 your original case and put on a few things you may have
12 forgotten. It can only address specific issues that are
13 raised by the defense. And of course during the course of
14 that, the defense will have an opportunity to
15 cross-examine the government's witnesses.

16 At the close of all the evidence, I will excuse you
17 back to the jury room for a few minutes, and the lawyers
18 and I will decide what instructions of law to give you.
19 And the instructions of law are kind of the snippets of
20 legal propositions that will guide you in your
21 deliberation. They are the legal yardstick that you will
22 use to measure the evidence that you have heard.

23 Now, once we agree upon the instructions, you'll come
24 out and I will read each and every instruction to you. It
25 will take a little while, but I have to do that. But you

1 will be able to take a copy of the instructions with you
2 back to the jury room to review them and to refresh your
3 recollection either before and/or during your
4 deliberations.

5 I often advise juries to begin your deliberations by
6 reading the instructions so you will know what must be
7 proven and how it must be proven.

8 After I give you the instructions, you will then hear
9 the final arguments of attorneys. That is advocacy in
10 action. They will argue to you what has and has not been
11 proven by the evidence that you've heard. But once again,
12 nothing the lawyers tell you in their final arguments is
13 evidence. You can use it in your analysis to kind of link
14 up all the dots. But if there is an element or an item of
15 evidence that's missing, final argument or opening
16 statement cannot supply it.

17 Now, during the course of the case you must not be
18 influenced in any way by any personal feelings of sympathy
19 for or prejudice toward either side. It's your sworn duty
20 to give a fair shake to both sides in this.

21 Now, I'm the one that determines the law in the case,
22 and I do that with the instructions which I will give you
23 at the close of the evidence and perhaps during the course
24 of the trial. Your job is to decide the facts. You can
25 decide the facts with the evidence that you hear, and you

1 can also draw any reasonable inference from that fact, but
2 keep in mind that you cannot engage in guesswork or
3 speculation. There has got to be a factual basis, some
4 factual basis, for every decision that you make.

5 Now, the evidence. It will consist of the testimony
6 of the witnesses and the documents that are admitted into
7 evidence, and other exhibits. There are times in which
8 lawyers stipulate to things. That means that both sides
9 have agreed that something is a fact. And when a
10 stipulation is offered, you're technically not obligated
11 as a jury to accept it, but I strongly advise you to do so
12 because none of the parties in the case are disputing that
13 particular fact.

14 The admission of evidence during the course of the
15 trial is governed by what is known as the rules of
16 evidence which have evolved over centuries of time. And
17 the rules of evidence are designed to protect the
18 integrity of the fact-finding function that you're engaged
19 in. Now, during the course of the trial it will
20 undoubtedly be the obligation of the lawyers to object to
21 certain things. And when they do, do not hold it against
22 them because they're merely trying to preserve the
23 integrity of the proceeding to make sure what you hear is
24 fair and competent evidence.

25 Now, when an objection is made, it is my job as the

umpire here to decide what you can and cannot hear. If I sustain the objection, that means that you should not consider that answer. If it is overruled, the answer stands.

Sometimes during the course of this case there may be evidence where it has a limited evidentiary purpose, and you can only consider it very narrowly. When that occurs, I will give you a specific instruction as to how you must weigh that evidence. And I know you will follow it very carefully.

You should never consider anything you see outside the courtroom. During the course of a recess or luncheon recess, if you overhear something or hear something, that cannot be considered by you in your deliberations. Your deliberations must be confined strictly to what you see and hear in the courtroom.

Now, the evidence will have two different types. It will be direct evidence, which is an eyewitness who recounts directly to you what he or she heard. And then there is circumstantial evidence, which is proof of fact from which you may infer to conclude that other facts exist.

The example that I have given for many many years, if this morning before you came out for jury service you put that big plastic can out at the end of your driveway or

1 out on the curb with all your recyclables, and when you
2 get home this evening and you look back in that can and
3 it's empty, well, you didn't see anybody remove the cans,
4 but logic and common sense dictated that someone did. And
5 that is an example, albeit a bit ridiculous, of
6 circumstantial evidence.

7 It's important for you to keep in mind during the
8 course of this case that no comment I make, no ruling I
9 offer, or no admonition that I give, is in any way
10 intended to telegraph to you my feelings about this
11 performance of the lawyers, the guilt or innocence of the
12 accused, or the weight to be given to the evidence. You
13 alone are the ones who have the difficult task of
14 determining the believability of the witnesses, and the
15 weight and value to be given to the evidence.

16 Now, let me give you a couple of thoughts that might
17 be of value. In determining the believability of
18 witnesses and the weight and the value of evidence, you
19 should first look to the appearance, attitude, and
20 behavior of the witness on the witness stand. And this
21 exercise, folks, is really no different than what you do
22 everyday in your life, personally and professionally, in
23 sizing an individual up in determining how believable they
24 are.

25 Then look to the interest that witness may have in

1 the outcome of the case. What do they have to gain. What
2 do they have to lose. Look at the relationship the party
3 may and the witness may have to either side in the case.

4 Look next to the inclination of the witness to speak
5 truthfully. What does that mean? Well, often in a case
6 either the defense or the prosecution may present a
7 witness with an inconsistent statement of an inconsistent
8 act that may have been performed. And in determining how
9 much believability to give to the testimony from the
10 witness stand, you can consider prior inconsistent
11 statements and acts in determining the inclination of a
12 witness to speak truthfully.

13 And lastly, the probability or improbability of the
14 witness's statements. Folks, one of the most important
15 things that you bring to this courtroom is your collective
16 human experience. And in determining the probability or
17 improbability of testimony, you should square that
18 testimony against your collective human experience and
19 good common sense and logic to determine whether or not it
20 rings true.

21 But in determining the weight and value of the
22 evidence, you can give any one item of testimony and any
23 one exhibit such weight and such value as you think it's
24 entitled to, but that must be done in the context of all
25 the evidence. In other words, all your decisions on

1 believability, the weight and value of the evidence, have
2 to be considered based upon the totality of all the
3 evidence that you have heard.

4 Now, pay careful attention to the testimony as you
5 hear it because unlike what you see on TV on all those cop
6 shows, we do not allow our court reporter to go back to
7 the jury room and read back testimony to you.

8 And to allow you to refresh your recollection, the
9 Marshal will give you a pad and pen and you can take notes
10 during the course of the trial, but I will give you an
11 instruction before you hear the opening statements on how
12 to use those notes.

13 Now, keep in mind that the defendant is presumed to
14 be innocent unless and until the government proves his
15 guilt beyond a reasonable doubt. During the course of
16 this case, you must not discuss it among yourselves or
17 with anyone else. Avoid contact with anyone else involved
18 in the case until it's closed. If you have questions or
19 concerns, you can talk to Marshal Wray or members of my
20 staff, but none of the parties or litigants during the
21 course of the case.

22 And also, when you go back to the jury room, as you
23 will in about two or three minutes, you cannot begin
24 chatting about the evidence that you've heard or your
25 impressions about the case. You cannot discuss the case

1 until you've heard all the evidence and the instructions
2 and you are deliberating under the charge of the presiding
3 juror, and only when all 12 of the jurors are present. If
4 you're discussing a point during your deliberations and
5 one of the jurors has to excuse themselves for a minute, all
6 deliberations must come to a halt until all 12 people are
7 present.

8 Now, for your planning purposes -- also, I want to
9 tell you something obvious. Don't make up your mind on
10 anything until you've heard all the evidence because,
11 folks, there's always two sides to every story.

12 Now, for your planning purposes, we will recess every
13 day about 1:00, give or take five minutes, for lunch for
14 one hour. I'll give you a recess in the afternoon about
15 3:00 or 3:30 for about 10 or 15 minutes. We'll take a
16 recess in the morning about 10:30 or 11:00. Today we
17 started at 9:30. Tomorrow we're going to start promptly
18 at 9:00. I want to get you out of here as quick as we
19 can. And I will try to close no later than 6:00 because I
20 know each of you have your own personal and family
21 obligations, so I'm going to make sure we close up no
22 later than 6:00.

23 If you have any needs or any concerns during the
24 course of your jury service, let Marshal Wray know and we
25 will address those. We appreciate your time. We know

1 it's a sacrifice for you to be here, and I'm going to use
2 your time very, very carefully.

3 Ladies and gentlemen, at this point you can retire to
4 the jury room. Relax for a few minutes. We'll come right
5 back out and we're going to hear the opening statements.

6 You may now retire to the jury room.

7 (The jury is no longer present in the courtroom.)

8 MR. WAGNER: Your Honor, if I may? I would just
9 offer g114 suggestion for instructions to the jury before
10 they start to hear the case.

11 THE COURT: Yes, sir.

12 MR. WAGNER: Judge, I know there's a lot that they've
13 said about jurors going out and looking at social media
14 and looking at the Internet --

15 THE COURT: And you know something, I should have
16 mentioned that, and I do in almost every case. I'm going
17 to do that at the close of business today when I give them
18 that instruction.

19 MR. WAGNER: Thank you, Judge.

20 THE COURT: I ordinarily do that, but I guess I
21 missed it. Thank you for reminding me, Mr. Wagner.

22 Is there a request for rule on witnesses, gentlemen?

23 MR. GILL: Yes, Your Honor. We request the rule be
24 invoked.

25 THE COURT: Anyone here who has been subpoenaed as a

1 witness, or you have been advised by an attorney that you
2 will be called as a witness in this case, I would ask you
3 to step out to the witness room. Do not discuss this case
4 among yourselves, or with anyone else except the attorneys
5 in this case until you're excused as a witness.

6 At this time, the Court will take a 10 minute recess.
7 I'll come back and we'll start right in to the opening
8 statements.

9 (Recess taken.)

10 THE COURT: Ready for the jury?

11 MR. GILL: We are, Your Honor.

12 MR. WAGNER: Yes, sir.

13 THE COURT: All right, Marshal, bring the jury in.

14 (The jury is present in the courtroom.)

15 THE COURT: Ladies and gentlemen, before you hear the
16 opening statements, as promised I want to give you some
17 instructions as to how you should take notes during the
18 course of the case. The notes that you take are for your
19 own personal edification. When you get back to the jury
20 room during the course of the deliberations and there's
21 some question about how a witness testified or how a piece
22 of evidence was presented, you can open your pad and
23 refresh your recollection and then present your
24 recollection to the other members of the jury panel.

25 What you may not do is read your notes to other

1 members of the jury. That's because invariably they're
2 impressionistic and have your own impressions written in
3 there, and rarely do they constitute an exact rendition of
4 what occurred in court. So, therefore, use them to
5 refresh your recollection, put your pad away, tell your
6 fellow jurors what you saw or heard, but do not read your
7 notes to the jury.

8 Ladies and gentlemen, I'd ask you now to attend to
9 the opening statements of counsel; Mr. Gill, on behalf of
10 the United States.

11 MR. GILL: Thank you, Your Honor.

12 Good morning again, ladies and gentlemen. As you
13 heard earlier, my name is Mike Gill. And today with
14 Gauhar Naseem, we represent the United States of America
15 in this case. As you also heard, that's FBI Special Agent
16 Brad Gregor. He is the lead FBI agent on this case.
17 He'll be with us throughout this trial, as well as
18 Paralegal Laura Taylor, who's with the U.S. Attorney's
19 Office.

20 Ladies and gentlemen, as you heard a little bit from
21 Judge Hudson earlier, this case is focused on an
22 investment fraud scheme that was orchestrated by the
23 defendant, Michael Harris. Now, the indictment focuses on
24 2005 through 2011. And you're going to find out that the
25 defendant, Michael Harris - when you see a triangle like

1 that throughout my notes, that's me referring to the
2 defendant - had a company named after himself, Michael F.
3 Harris Research, Incorporated. When you see an MFHR,
4 that's me referring to the company.

5 Now, the defendant, you will find out, solicited
6 investors over the course of this period. And he told the
7 investors very specific things about what was going to be
8 done with their money. He told them that if they invested
9 in this company, their money would be used for patents,
10 their money would be used for research, their money would
11 be used for testing.

12 Ladies and gentlemen, in this case we're going to
13 pull back the curtain on what was really happening with
14 the defendant's company and with the defendant. And we're
15 going to show you through a trail of money that the
16 defendant had lied to the investors, that he concealed
17 from the investors what he was doing with the money, and
18 that he spent an overwhelming majority of that money on
19 his own personal expenses unrelated to the areas that he
20 had promised those investors. In fact, in this case
21 you're going to find out that through his lies and
22 concealment, that over the course of time from roughly
23 2005 up through July 2011, the time period charged in the
24 indictment, the defendant brought in over \$850,000 in
25 investment monies from investors who invested in what he

1 was telling them that their money would get used for at
2 Michael F. Harris Research, Incorporated.

3 We're also going to present detailed financial
4 analysis that will show you that over \$700,000 was used
5 for the defendant's own personal expenses during that
6 time, but we'll get even more specific focusing in on the
7 accounts that are charged in the indictment, and show you
8 what happened with investors' monies after they'd been
9 told specific things by the defendant. You're going to
10 notice a pattern throughout the evidence. In this case,
11 you'll notice that the defendant will run low on money,
12 will go to a particular investor, will tell them their
13 money is going to be used for a patent, for research, for
14 testing, and then he'll take their money and then he uses
15 it for overwhelmingly his own personal expenses.

16 Now, at Michael F. Harris, M.F. Harris Research,
17 Incorporated, you'll find out that the business has been
18 operating since 2003, but you'll find that the defendant
19 has been involved in this area we'll be talking about for
20 many years before that back in the 1990s. The evidence
21 will show you that the defendant was in charge of the
22 company. He was the only person who had control of the
23 accounts, and he guarded the financials closely, not
24 willing to share the information with the shareholders.

25 Now, as I mentioned, the defendant told the investors

1 every step of the way that their money would be used for
2 patents, research or testing, with little variance just
3 depending upon who he was presenting it to. You're going
4 to hear testimony about that. You're going to find out
5 what they were investing in was a hyperbaric chamber
6 treatment, potential treatment, for HIV/AIDS. A
7 hyperbaric chamber is what they use to treat divers that
8 get decompression sickness from diving.

9 Now, ladies and gentlemen, you'll find out the
10 defendant, through this potential treatment, would tell
11 investors that this presented a great investment
12 opportunity for them to potentially help to pitch in on
13 something that would allow people to treat AIDS. It also
14 presented a lucrative financial investment allowing them
15 to potentially make big returns down the road when this
16 hit the market with the share prices going substantially
17 up from what they paid.

18 To make it really clear, ladies and gentlemen, the
19 United States' case is not about the validity of this
20 treatment. Whether it works or whether it doesn't work is
21 not an issue in this case; rather, this case is focused on
22 what the defendant told his investors, what the defendant
23 concealed from his investors, and what the defendant did
24 with investor money at each step of the way.

25 The evidence in this case is going to focus on 2005

1 through 2011, and the presentations that the defendant
2 made to the investors. And you're going to notice, ladies
3 and gentlemen, that it stayed basically the same
4 throughout that entire time what the defendant was telling
5 his investors. He told them money was going for patents,
6 research, and/or testing. And in connection with those
7 presentations, you will find out from the witnesses there
8 was never a mention, or even a hint, that the defendant
9 would use their money for his own personal expenses. That
10 he would use their money to buy his personal residence,
11 that he would use their money to pay his own utility
12 bills, restaurant expenses, purchases at gun stores, and
13 other items. There was no mention during those
14 presentations, we expect the evidence will show you, that
15 the investor money many times was used to cover already
16 negative balances in the defendant's business and personal
17 accounts. And not a mention to these investors that the
18 money would somehow be used for a salary he paid himself
19 instead of going to those areas that he had promised.

20 We're also going to focus on acts of concealment in
21 this case. You will find out that the defendant engaged
22 in concealment at shareholder meetings, one-on-one
23 conversations with different shareholders as well, and
24 other acts that you're going to find out as the case
25 unfolds. We're going to pull back the curtain in this

1 case, and we're going to follow the money.

2 And the last witness you're going to hear from the
3 United States in this case is going to be financial
4 analyst, Cindy Williamson. And you see her right here.
5 She's CW. Cindy Williamson has years of experience in
6 looking at financial records and following the trail of
7 money. And you're going to find, ladies and gentlemen, as
8 we fully expect, that her analysis in this case is very
9 conservative and very, very thorough.

10 Now, to start out we're going to walk through the
11 time periods, the general time periods you're going to see
12 in this case. Now, the witnesses won't quite be in this
13 order, but this will give you a framework. The 2005
14 through 2006 time period, you're going to find out from
15 one of the first key witnesses in this case, a police
16 officer named Nicole Gentry. She is with the
17 Fredericksburg Police Department, and she's going to tell
18 you that in the fall of 2005, the defendant did a
19 presentation for numerous individuals in Fredericksburg,
20 Virginia about this investment opportunity she attended in
21 her personal capacity with friends and associates of hers.
22 And she'll tell you that during that presentation, the
23 defendant told them that any investment money, and told
24 Nicki Gentry personally as well, was going to be used for
25 research and for patent expenses.

1 Nicki Gentry will tell you that she was very
2 impressed with the presentation, and that she was
3 impressed with the investment opportunity. In fact, she
4 invested \$5,000, along with a partner of hers, into M.F.
5 Harris Research, Incorporated. Cindy Williamson, through
6 her financial analysis, is going to pull back the curtain
7 on what the financial records show was actually going on
8 with the defendant's business and personal accounts that
9 he, and he alone, controlled. From October 2005 up
10 through the August 2006 time period, you'll find out that
11 the defendant brought in approximately \$140,000 from
12 investors. Of that included Nicki Gentry's \$5,000. In
13 looking at how that money was spent, about \$8,300 went to
14 patents. Aside from that, about \$17,500 went to auto
15 expenses, including the defendant's purchase of a Jeep;
16 \$14,000 to various store expenditures; \$14,000 in cash
17 withdrawals; \$7,500 in gun store expenditures. You'll
18 find out that the defendant is a gun collector. \$7,000 to
19 PayPal which is associated with Ebay, things bought
20 on-line; \$6,000 to an account that the defendant
21 maintained with his girlfriend at the time named Myranda
22 Caudill; \$5,000 to restaurants. And no identified
23 research. And only the patents that we talked about,
24 those expenses.

25 Now, we'll move up into 2006. Now, the snapshot that

1 you're going to get about 2006, ladies and gentlemen, from
2 Cindy Williamson' analysis is that the defendant brought
3 in for that year about \$256,000 in investor monies. It
4 accounted for 99% of the net income coming into the
5 defendant's business accounts, as well as his own personal
6 accounts, which you'll find out was just intermingled.

7 Of that total amount brought in, you'll find out
8 approximately \$14,500 went to patent expenses; over
9 \$110,000 went to housing and utility expenses for the
10 defendant; \$40,000 went to stores and restaurants; \$22,000
11 to farm expenses. You're going to find out that the
12 defendant in this case is a steeplechase rider, and he had
13 four to five horses of his own at any given time during
14 this investment fraud scheme. In addition, there was
15 \$17,000 in auto expenses, and other personal expenses that
16 you'll learn about.

17 During the 2006 time period is when investor,
18 Dr. Tom Marosi, seen as TM in here, came on the scene.
19 Now, Dr. Marosi was an anesthesiologist from San Diego,
20 California. And you'll find out that in August of 2006 he
21 got some tragic news. He found out that he had been
22 infected with the AIDS virus. Now, he also talked to his
23 good friends, and former romantic partners, Marcelo
24 Bellato, MB, and Steven Baughman, SB, and found out that
25 they had been infected as well. It was a tragic time.

1 But Marcelo Bellato will tell you, and he will testify in
2 this case, that they had hope. And particularly
3 Dr. Marosi had hope because he had done research just on
4 finding out what's out there for potential treatments, and
5 found out about the defendant at M.F. Harris Research,
6 Incorporated.

7 So after finding the defendant, you will find out
8 that Marcelo Bellato, Steven Baughman, and Dr. Tom Marosi
9 took a trip. They came to Virginia to meet the defendant.
10 They met with the defendant on August 30, 2006. They
11 stayed a day or two, and they got to sit down and see the
12 defendant's presentation.

13 Marcelo Bellato will tell you that he sat through the
14 presentation. It was extensive. It was impressive. And
15 he understood that if his friend Dr. Tom Marosi invested,
16 that money was going to the company, the company that was
17 working for AIDS research. Furthermore, with Dr. Marosi's
18 investment, there was an agreement that Dr. Marosi,
19 Marcelo Bellato, and Steven Baughman would get to go to
20 Europe with the defendant. You'll find out he has ties to
21 Europe. They would get to go with him to Europe to get
22 treatment through the hyperbaric chambers since the
23 treatment had not been approved in the United States. And
24 they were all very excited about this.

25 You'll find on September 1, 2006, that Dr. Marosi

1 signed a stock subscription agreement for an investment in
2 MFHR, the defendant's company. He's going to invest
3 \$200,000. And according to that agreement, he was to
4 receive 200,000 shares in MFHR.

5 On October 3, 2006, and we'll show you the trail of
6 money, Dr. Marosi wire transferred his investment to the
7 defendant's business account and it was received. We're
8 going to pull back the curtain, ladies and gentlemen, and
9 tell you what was going on that Dr. Marosi did not know at
10 the time. At the time Dr. Marosi's investment hit the
11 business account, MFHR had only \$812.07 in its account.
12 The defendant, \$313.57 in his personal account.

13 You're also going to find out, and Myranda Caudill
14 will testify before you, that at that time she was the
15 defendant's girlfriend. She is the mother of his son.
16 She'll tell you that in 2006, leading up to August of
17 2006, the defendant was living with her and her parents
18 there in Luray, Virginia. He had been living with them,
19 but the defendant was kicked out of the house and no
20 return. August 31, 2006. Right around there.

21 Then you'll find out through the evidence that the
22 defendant's focus shifted to finding a personal place to
23 live. So he found 1291 Stonyman Road, Luray, Virginia.
24 The same house he lives in today. It's over 2.6 acres.
25 It's a farm and a house. And just within days of reaching

1 an agreement with Dr. Marosi, you'll find that on
2 September 11, 2006, the defendant signed a contract to
3 purchase that house. And that contract, the purchase
4 price, was \$190,000. That same contract, the down payment
5 per the contract, was going to be \$115,000 for that
6 property. At the time, financial analysis will show you,
7 the defendant had \$862.31 in his personal accounts at the
8 time he signed that agreement.

9 Dr. Marosi's \$200,000 investment hit the business
10 account on October 3, 2006. The defendant signed the loan
11 documents to purchase this Stonyman house to get a loan on
12 October 24, 2006. And in those documents that you'll see,
13 he represented that the down payment was coming from his
14 sale of stock.

15 You'll find out that on October 31, 2006, ladies and
16 gentlemen, that Dr. Tom Marosi died. And you'll find that
17 Dr. Marosi did not die of AIDS, and he did not die of any
18 reason associated with this case.

19 But things continue on from there with respect to the
20 defendant. On November 22, 2006, the defendant signed the
21 closing papers to purchase that house at 1291 Stonyman
22 Road. And following the trail of money, \$85,000 of Tom
23 Marosi's investment was used for the down payment on this
24 house for the defendant's purchase. We'll follow the
25 trail and show you where the rest of Tom Marosi's money

1 went. All the money was spent by February 7, 2007. It
2 was gone.

3 Six thousand dollars of Tom Marosi's money was spent
4 on patents; \$107,900 on a house, for the purchase of the
5 house, for some improvements, and other things you'll
6 learn about; \$17,000 was spent at stores; \$15,000 was
7 spent on farm and horse expenses; \$5,000 for auto; \$5,000
8 for another transfer to the joint account maintained in
9 Myranda Caudill and the defendant's personal names; and,
10 \$2,400 for purchases at gun stores.

11 And despite the agreement, you'll find out from
12 Marcelo Bellato the agreement was that he, Steven
13 Baughman, and Tom Marosi would get to go to Europe to get
14 the treatment. Marcelo Bellato will tell you that after
15 Dr. Marosi's death he kept track and was in contact with
16 the defendant as much as possible, and that months drew on
17 with occasional contact and occasional hope that he would
18 get to go, but he never got to go to Europe, nor did
19 Steven Baughman, to even try this treatment.

20 Now aside from this, ladies and gentlemen, you're
21 going to hear testimony from a CPA named Steven Weiner.
22 Steven Weiner will tell you that he was contacted by the
23 defendant by phone in 2007. The defendant asked him to
24 prepare the tax returns for Michael F. Harris Research,
25 Incorporated for 2003 working up through 2006. The

1 defendant provided him with financial information, bank
2 information, to use in preparing those returns, which he
3 did. As a CPA, he went through them and he will tell you
4 he put the information on the returns.

5 With respect to the 2006 U.S. Corporate Tax Return
6 for Michael F. Harris Research, you're going to see checks
7 in this case and investor monies that were not reported on
8 the tax return for that company. In fact, according to
9 the tax return as prepared by Steven Weiner, the company
10 brought in a little over \$10,000 in investments for that
11 year. The return does not include Tom Marosi's \$200,000
12 wire transfer, and it doesn't include other checks that
13 you will see in this case entered into evidence with
14 respect to investments. And you'll find that the
15 defendant signed that tax return on December 7, 2007, and
16 it was filed with the Internal Revenue Service as
17 accurate.

18 After Tom Marosi's death, his brother, John Marosi,
19 who will testify before you, will tell you about how he
20 was his brother's executor for his brother's will. And
21 that he, as part of that process, was in charge of
22 gathering up his brother's assets to put into a trust for
23 distribution to different individuals named in
24 Dr. Marosi's will.

25 John Marosi was aware that his brother had invested

1 \$200,000 in the defendant's company. He knew that his
2 brother had hope when he got that bad news that he had
3 AIDS. When John Marosi went through his brother's
4 belongings, and other family members gathered things
5 together, he found the stock subscription agreement, the
6 agreement to buy the stock, had been signed by his
7 brother. He also found a wire transfer authorization his
8 brother had signed to transfer \$200,000 to the defendant,
9 but did not find the stock certificate from that company.
10 So the evidence will tell you about John Marosi's efforts
11 that go for the next two and half years to obtain the
12 stock certificate from his brother's investment in the
13 defendant's company. He'll tell you, and you'll see them
14 entered into evidence, that he wrote two certified letters
15 to the defendant at his post office box in Luray,
16 Virginia. In those letters he represented that he was Tom
17 Marosi's brother. That he's the executor of his brother's
18 estate. He tells him that he is not able to locate the
19 stock certificate, and he is requesting financial
20 information about the company as well.

21 As a final point in each of these letters, you'll see
22 that John Marosi tells him that he, John Marosi, and his
23 sister, Susie, would like to take the brother's place when
24 the defendant takes Marcelo Bellato overseas to get him
25 treatment because they'd like to see that go through with

1 respect to the investment.

2 No response from the defendant to either of those
3 letters, so John Marosi starts poking around. He'll tell
4 you that he starts trying to locate shareholders in this
5 company. And he went to state regulatory and federal
6 regulatory authorities, and he filed a complaint with the
7 SCC. He went to the North Carolina State Corporation
8 Commission where the defendant's company was incorporated,
9 and started digging around.

10 March 12, 2008, he gets an e-mail from the defendant,
11 and in that e-mail the defendant tells him that he
12 understands that John Marosi is falsely impersonating a
13 shareholder in the company. Tells him to
14 cease-and-desist. He will get a restraining order against
15 him if he continues down that path. And he says that he
16 had tried -- the defendant claims that he had tried to
17 contact John Marosi's sister on two occasions and she had
18 not responded.

19 We find out shortly after that e-mail John Marosi
20 fires back a response. Tells the defendant that he had
21 sent him letters advising him of his connection to his
22 brother's estate with letters testamentary confirming his
23 legal authority to gather assets for his brother's estate.
24 He had further requests for financial information about
25 the company, including, he tells him, he wants to know how

1 my brother's \$200,000 investment monies were spent. He
2 tells him he wants the stock certificate issued for his
3 brother's investment.

4 The defendant responds within 28 minutes to that
5 e-mail, doesn't provide any of the financial information,
6 and tells Mr. Marosi that the shares are nontransferable.

7 Now, after that, you'll find out that John Marosi
8 sent another certified letter to the defendant on
9 April 24, 2008. The letter was received. He signed the
10 certificate. He asked for the same information, the
11 financial information, the stock certificate, information
12 about the company, shareholders, and he got no response.

13 So in the fall of 2008, John Marosi files a lawsuit
14 in North Carolina to get those shares back from the
15 defendant, to get them issued. That lasts up until
16 February of 2010. You'll find out that finally through
17 negotiations, and everything else, that a court order is
18 entered. That order says the shares are to be issued to
19 the estate of Dr. Tom Marosi. And finally, John Marosi
20 will tell you, he got those shares, but since that time he
21 has received no other financial information about this
22 company or how his brother's money was spent.

23 Moving forward to 2007, ladies and gentlemen, through
24 the financial analysis you'll find out the defendant
25 brought in over \$300,000 in 2007 from investors. That

1 accounted for about 97% of the net income that was going
2 into all of the defendant's business and his personal
3 accounts. Out of that amount, \$5,090, give or take, went
4 to patents; \$80,000 went to stores, restaurants,
5 entertainment, and credit cards; \$50,000 to housing,
6 utilities; \$28,000 to farm and horse expenses; \$18,000 to
7 auto expenses; \$5,000 to child support payments.

8 And you're going to find out about the defendant's
9 concealment of his personal expenses from 2007 -- or
10 concealment of his business expenses from 2007. Now see,
11 2009, just fast-forward just a moment, in 2009,
12 shareholders are getting very upset with the defendant
13 because he's not giving them financial information about
14 the company and what's being done. Rosalie Baker, who was
15 an investor who invested in 2009, offered to give the
16 defendant -- RB offered to give him help to put together
17 some of these financials, so the defendant takes her up
18 partially on her offer. He gives her bank statements to
19 help her prepare the financial statements. He represents
20 these are the business expenses. She goes through them.
21 She finds he does not give her any checks underlying those
22 bank statements. She only has the bank statements.

23 Ms. Baker will tell you that when she went through
24 that stuff and prepared drafts, she was never able to
25 complete this process. The draft financials will give you

1 a behind-the-scenes look of what was going on in those
2 financials that the defendant had helped her and guided
3 her to prepare. Number one, you'll find out that the 2007
4 draft financials don't include, because the defendant did
5 not provide Ms. Baker with information about the
6 January 2007 business accounts for M.F. Harris Research,
7 Inc., the same statements that would have shown the
8 spending of the final \$30,000 of Tom Marosi's money in
9 that month. It was gone by the end of that month, but it
10 does not show up on the financials.

11 When Rosalie Baker asked the defendant -- because
12 what it caused is the numbers got out of whack. It wasn't
13 balancing. He told her that there had been a bank card
14 theft or something on the account, and she just wrote it
15 off as that on the financials.

16 Now, because she didn't have the checks she could not
17 tell what expenses should go where. She sat down with the
18 defendant on two occasions for about an hour and a half
19 each time where he went through it and he would tell her,
20 okay, this expense goes here, this expense goes there.
21 She'll tell you she sat down with the defendant to go
22 through patent expenses. She couldn't tell what was for
23 patents. So the defendant identified for her, and she put
24 them on the draft financials, these transactions.

25 In total, it identified \$46,339.07 had been spent on

1 patents that year. Among the transactions that you're
2 going to see here, and in Cindy Williamson's testimony,
3 are these that were listed in there. Check Number 1002
4 that Rosalie Baker didn't have in her possession, \$950 for
5 patents. And it goes down the list. But when you look at
6 the actual checks from Cindy Williamson's analysis, it
7 will show you -- it shows that that \$950 check that the
8 defendant told Rosalie Baker to put down for legal patent
9 expenses was actually made to Larry Parcel for Jeep
10 damage.

11 Check Number 1005, \$10,000. The defendant identified
12 that as legal patent expenses. The actual check was to MF
13 Harris for payroll.

14 Check Number 1015. Legal patent expenses, \$1,100.
15 That check was to Doug Taylor, with the notation in the
16 memo, "*plumbing bathroom.*"

17 Check Number 1017. Legal patent expenses. \$2,300.
18 The actual check notes "*roofing expenses.*"

19 Check 1018. \$10,000 made out directly to the
20 defendant, Michael Harris, for payroll.

21 Check 1019. \$950 identifies patent expenses. Made
22 out to Ronny's Electric for "*house bath/bar*" listed in the
23 memo.

24 Moving up to 2008 we're going to present to you
25 different investors, and they're going to tell you about

1 their interactions with the defendant, how they met, the
2 representations that he made to them, including David
3 Evans who lives in Portsmouth, Virginia. He'll tell you
4 that he met the defendant a few years prior and had gone
5 on diving trips with him and stuff. And that in 2008,
6 David Evans came back from Guantanamo Bay where he'd been
7 working with his wife on a contract job, and decided he
8 wanted to invest, so he contacted the defendant. The
9 defendant came to David Evans' house, sat down in the
10 living room with David Evans and his wife, Joyce, and did
11 a presentation for them. A PowerPoint. Very detailed,
12 and all about what Michael F. Harris Research does with
13 this potential treatment, and what's on the horizon. And
14 he tells him that the money -- he mentions patents in the
15 presentation, but principally the money will be used to
16 finish the clinical trials. Finish the testing. And
17 that's what David Evans believed that if he and his wife
18 invested that's where their money would go.

19 On August 4, 2008, the defendant sends an e-mail that
20 David Evans receives in Portsmouth, Virginia with wire
21 transfer information for his investment. And he tells
22 him, you know, where to send the money. And that forms
23 the basis for the wire fraud charge in Count 6. We're not
24 going to worry about the law right now.

25 What we're going to do, ladies and gentlemen, and

1 you're going to find out, that he invested his money and
2 David Evans fully expected it was going towards finishing
3 those clinical trials. We'll pull back the curtain and
4 show you the reality of what was going on with that
5 transaction. Michael F. Harris Research, the account
6 where the money went before David Evans' wire transfer
7 hits, had \$40.87 in it. David Evans' money, he and his
8 wife Joyce's money, hits August 15, 2008. By August 21,
9 2008, that money is gone.

10 You'll find that the money went \$3,560 to farm and
11 horse expenses; \$1,067.20 went to housing for the
12 defendant's mortgage; \$724.14 to auto expenses; and,
13 \$73.95 in bank fees.

14 Another investor you're going to hear from is Katie
15 Ritter. Katie Ritter will tell you that she and her
16 husband met the defendant at his house in October of 2008.
17 And he told them about what he did and his background.
18 And Katie Ritter will tell you that she was extremely
19 interested in this possibility for investing in this
20 company, and extremely interested to help out. She made
21 arrangements with the defendant to see the presentation.
22 You will find out that the defendant on December 24, 2008,
23 Christmas Eve, he drove up to Maryland to meet Katie
24 Ritter out of town. There'd been an ice storm the day
25 before, but he drove up there and met with her. Did the

1 presentation for her.

2 And Katie Ritter will tell you in no uncertain terms
3 she was told that her money, she and her husband's money
4 they put into this, was going to patent and Phase II
5 testing. The human trials to get this going. And the
6 defendant told her that time is of the essence. She had
7 to get in before the end of the year because there was a
8 big opportunity coming for the company and he probably
9 wasn't going to be taking anymore investments from private
10 investors. So they felt like they had to get their money
11 in, and they invested \$5,000. They overnighted that money
12 to the defendant.

13 And we'll pull back the curtain on what happened with
14 the money. The reality is that the Michael F. Harris
15 Research business account where the money was deposited
16 was negative \$406.25 at the time Katie Ritter's money
17 comes in. The defendant's personal account, negative
18 \$256.55. Her money is deposited December 31, 2008, and
19 it's gone by January 16, 2009. You will find out that it
20 goes to auto expenses, store expenses, utility bills,
21 restaurants, and entertainment.

22 With respect to 2008 investments, you'll also find
23 Major Joe Newcomb. He's in the United States Marine
24 Corps. He'll tell you that he met the defendant in 2008.
25 They developed a good relationship. He considered the

1 defendant a friend. And he was told that his money would
2 be used for research and patent. And Major Newcomb
3 invested \$6,500. And we'll trace that money as well.

4 One of his checks for \$1,000, we'll show you directly
5 what happens to that. The other one went into a pool of
6 money. We'll show you what happens to that. Again, same
7 pattern.

8 2009. Now the investor money is starting to dry up
9 somewhat, but the defendant still gets over \$100,000,
10 accounting for 73% of the net income coming into his
11 account -- or all of his accounts. We'll present
12 testimony from Rusty and Erika Carrier. RC/EC. They'll
13 tell you that they met the defendant at some point around
14 late 2008 or early 2009. And Erika Carrier will tell you
15 about how she saw the presentation about the possible
16 research. She was very impressed by it. And she'll also
17 tell you about how she came in contact with the defendant.
18 She is a representative at horse auctions. She actually
19 met the defendant over the phone who was asking her to bid
20 on a horse for him during that for up to \$5,000 or \$7,000.

21 After that, she and her husband sat down, they
22 watched the full presentation, and they were told that if
23 they invested, their money would be used for patent and
24 human trial testing. Rusty Carrier finally agreed to
25 invest \$10,000. He'll tell you, and Erika Carrier will

1 tell you as well, that the defendant tried to get him to
2 invest \$100,000. Rusty Carrier decided on \$10,000.

3 The day the investment was going to come through,
4 December 27, 2009, they were going to have the defendant
5 over for dinner, but you're going to find out that Rusty
6 Carrier was very ill that evening leading up in the
7 afternoon, and he did not feel like having dinner. He
8 will tell you about his condition. It was serious, and he
9 was in bed.

10 Erika Carrier called the defendant to tell him that
11 they couldn't do it. They'd have to do it another day.
12 But she'll tell you the defendant pushed back. And he
13 pushed back and he wanted to come and get that investment
14 money. Erika Carrier went back and checked with Rusty
15 Carrier, and finally she tells the defendant, okay, if you
16 want to come, come. So the defendant on his motorcycle
17 drove one hour from Luray, Virginia to get to Rusty
18 Carrier's house. He got there about 9:00 that night. He
19 had to wait while Erika Carrier went up and had her
20 husband sign the documents to do the investment, and to
21 give him the check for \$10,000 that was supposed to go to
22 research and -- or to the patent and human trial testing.

23 We're going to pull back the curtain, ladies and
24 gentlemen, to the reality of what happened to Rusty
25 Carrier and Erika Carrier's \$10,000. At the time the

1 defendant took their investment money, his personal
2 accounts, one of them was a negative \$2,438.19. His other
3 personal account was negative \$299.84.

4 He took that investment check from the Carriers, and
5 he goes into the bank, you will find, and it splits in
6 three different directions. Part of the money goes into
7 the defendant's personal bank account, part of the money
8 goes into the MFHR new business account that he opened,
9 and then the defendant takes \$2,000 in cash out of the
10 bank within that day from the Carrier's investment money.
11 You will find that the money was spent -- it comes in
12 March 2, 2009. It's gone by April 1, 2009. It was used
13 to cover negative balances, as well as the cash we talked
14 about, auto, stores, farm and horse, restaurant. No
15 patent or clinical trial expenses identified on that
16 money.

17 2010. Investors that year -- again, the investor
18 money is starting to dry up. \$43,000 coming in that year,
19 but you'll find that that still is the largest source area
20 coming into the defendant's business and personal
21 accounts. And there's a situation brewing with the
22 shareholders. They're very, very upset that they're not
23 getting financial information about what's going on with
24 this company despite repeated requests at previous
25 shareholder meetings.

1 November 20, 2010, there's a shareholders' meeting
2 held up at the Ritz Carlton up at Tyson's Corner. You'll
3 find out that several attended this, including Rusty
4 Carrier, Katie Ritter. The meeting was recorded. And
5 you'll find, and there will be different clips from that,
6 the defendant continues not to provide financials.
7 Provides excuses to the shareholders. Tells them that
8 we're working on it. When it's perfect you're going to
9 get it. And you'll find that he continues the acts of
10 concealing from investors about where the money is really
11 going.

12 He tells the investors, and you'll hear the clip
13 during that, that patent expenses for that year in 2010
14 have been \$39,000 -- or that he had brought in roughly
15 \$39,000. That's about right. And that that had been
16 absorbed in patent fees. That it costs a lot. The
17 shareholders pushed him on that, and he said patent fees
18 were about \$9,000 a quarter.

19 Now, Cindy Williamson will tell you based on her
20 extensive financial analysis, she identified for the
21 entire year of 2010 approximately \$7,000 in patent
22 expenses. And for the prior years, you will see the
23 expenses categorized through her analysis on patent
24 expenses. It does not fit this \$9,000 a quarter claim by
25 the defendant during that shareholder meeting.

1 Also during that same shareholder meeting, the
2 defendant talked to the shareholders about steeplechase
3 money. Now, he's an avid rider. I told you he has horses
4 that you'll find out about during this case. And he tells
5 them things about that in the meeting.

6 I'll tell you as a side note that you'll find out
7 from various witnesses in this case that the defendant
8 would tell them that he earned money for winning at these
9 races, these steeplechase races, and he would use that
10 money to pay not only his personal expenses, but he would
11 put it into the company. Well, at the shareholder
12 meeting, he tells the shareholders he's getting his teeth
13 knocked in on the racecourse. And he's going to keep on
14 doing it and it's going to bring money in. He represents
15 to them he's brought in about \$24,000 through that.

16 The reality, shown through Cindy Williamson's
17 financial analysis, looking at the whole view over the
18 years was that it was shareholder money that was funding
19 his riding as opposed to his riding funding his personal
20 expenses or anything to do with this company.

21 Also, you'll hear testimony from National
22 Steeplechase Association, General Manager, Peter McGivney.
23 And you'll found out that the NSA, as it's called, they
24 manage big ticket steeplechase races for the entire United
25 States, including Virginia and the surrounding areas. And

1 he will tell you based on his experience that he knows
2 those races are called "*sanctioned*." Those are the ones
3 where there are these big prizes. And they keep very
4 detailed records on these events. And according to the
5 NSA records, you'll find out from 1998 through 2011 the
6 defendant won twice under NSA sanctioned races. In 1990,
7 he got \$500. In 2011, he got \$450.

8 Now, General Manager McGivney, and other witnesses,
9 will describe for you there are other races in the
10 steeplechase world called Point-to-Point and Hunt Club
11 races. And those races generally have no money in them.
12 Or if they do, it's a very minimal amount to the top prize
13 winner, and that's it.

14 On September 11, 2011, ladies and gentlemen, you'll
15 find out investor money is indeed drying up with the
16 defendant, but he continues to pursue. In April of 2011,
17 he goes to a seminar in Denver, Colorado. He sets up a
18 booth there. You'll find out that FBI Special Agent Julio
19 Tobar, who is acting undercover, sat down and talked to
20 the defendant. Recorded it. You're going to hear clips
21 from that conversation. During that conversation, the
22 defendant tells Agent Tobar in response to his question
23 about where is the investor money being used, the
24 defendant tells him investor money is being used for
25 trials.

1 Now, after that, Special Agent Tobar also, you'll
2 find, e-mailed with the defendant. And he represented to
3 him that he represented several investors willing to put
4 in half a million dollars into this company. He requests
5 very specific financial information. You'll see the
6 exchange and the questions he's asking. The defendant on
7 the final exchange after he gets the big questions asks
8 Julio Tobar via e-mail, *"Are you a federal agent?"* And he
9 won't provide him with the financial information, but
10 basically tells him we're going to start the testing once
11 we get the money.

12 The final investor is Diane Desch. She is referenced
13 in Count 6 of the indictment. She wire transfers money
14 for investment. She'll tell you that she met the
15 defendant around 2009 at a horse show up in Warrenton,
16 Virginia, and that they kept touch by phone since then.

17 In early 2011, she actually visited the defendant in
18 Luray, Virginia. And she'll tell you that he did a
19 presentation for her about his business and about the
20 treatment. And she'll tell you she was very taken with
21 this because she lost her own father to AIDS. That it
22 struck a cord with her.

23 On June 13, 2011, the defendant calls her and tells
24 her that he frantically needs \$2,500 to cover patent
25 expenses. She goes to the bank. She has \$2,500 that she

1 puts in the defendant's account. And you'll find out
2 through analysis that indeed \$2,122 of that money went to
3 patent.

4 But June 14, 2011, the defendant sends an e-mail to
5 Diane Desch giving her more information about his company,
6 and then following up that led to her next investment of
7 \$7,500, which forms the basis for Count 6 -- or Count 7 in
8 the indictment.

9 On June 28, 2011, she wire transfers \$7,500. She
10 understood her money was going into the company to further
11 this research and development for AIDS. The reality is,
12 as we pull back the curtain, the business account at the
13 time her money hits had negative \$157.95 in it. Her money
14 is spent on housing, store, auto, utilities, restaurant,
15 and also farm expenses. And also to put it in context,
16 the evidence will show you that at this time the defendant
17 knows he's under investigation by the State Corporation
18 Commission. He also knows that shareholders are very
19 upset about financials and how money has been handled in
20 this entire thing.

21 Finally, Diane Desch will describe for you that she
22 received another call later that month from the defendant.
23 He needed \$3,000 from her to shoe his horses because he
24 needed those horses to enter into a race, that he was
25 going to win money, and with those winnings he could repay

1 her and also he could put money towards the research. You
2 will find out that Cindy Williamson traced that money, and
3 only a minimal amount arguably went to any type of horse
4 expense. Most of it was spent the same way as the others'
5 - on personal expenses.

6 Finally, ladies and gentlemen, 2012. You're going to
7 hear from FBI Special Agent Brad Gregor towards the end of
8 the United States' case. He will tell you that he
9 interviewed the defendant in October of 2012. During that
10 interview, the defendant admitted to using investor money.
11 He said that he was just paying himself back for expenses
12 in the past.

13 He also told Agent Gregor when Agent Gregor asked
14 him, is he keeping track of that. He told Agent Gregor,
15 no, he wasn't keeping track.

16 He was asked whether he told investors about this.
17 And he said, oh, they understood.

18 He was asked about the use of Tom Marosi's money to
19 buy the house, and the defendant told him that, you know,
20 he's made some bad decisions in the past but it's not
21 criminal. That he felt like that was in a gray area.

22 And he was also asked why didn't he take Marcelo
23 Bellato or Steven Baughman on that treatment trip to
24 Europe. And the defendant told him that there wasn't
25 enough money to do it, and that it was actually Dr. Tom

1 Marosi's responsibility to pay those travel expenses for
2 them to go to Europe.

3 Now, ladies and gentlemen, that sums up a large part
4 of the evidence that you're going to see in this case.
5 And the United States fully expects when you see it
6 develop, you'll find that it relates, it weaves together,
7 and it points in only one direction. At the conclusion of
8 this case, we'll ask you to return the verdict of guilty
9 on all counts.

10 Thank you.

11 THE COURT: Mr. Wagner on behalf of Mr. Harris.

12 MR. WAGNER: Thank you, Your Honor. May it please
13 the Court, counsel.

14 Ladies and gentlemen, my name is Robert Wagner. I'm
15 with the Federal Public Defenders Office. With me at
16 counsel table is Pam Bishop. She's also with the Federal
17 Public Defenders Office. And Nick Klaiber. He is with
18 the firm of Troutman Sanders. And he has volunteered his
19 time to Michael Harris' case here. We represent Michael
20 Harris in this case, and we will show you by the end of
21 this trial that Michael Harris is not guilty of all of the
22 charges that he faces.

23 Michael Harris is a very interesting man. He has
24 done some extraordinary things in his life. Most
25 significantly, he has developed the science which forms

1 the basis of his company. The science that could
2 revolutionize the treatment of AIDS, and could make a
3 difference in the health of people all around the world.

4 The government's allegations of fraud in this case of
5 lying and cheating and of stealing is tainted heavily by
6 the influence of a man that the government didn't even
7 talk about in their opening statement, a man by the name
8 of Matt Johnson, and his company called Deep Blue, which
9 stands to take over Michael Harris' science, his life's
10 work, his passion, if Michael Harris is convicted. We're
11 going to ask that you not let this happen.

12 Now, you're going to see the full force and effect of
13 the United States government through this prosecution.
14 You're going to see some very detailed financial analysis,
15 and you're going to see some beautiful charts that they're
16 going to show you by the end of this case. You're going
17 to hear some well-prepared witnesses, and you're going to
18 hear some sharp arguments by their attorneys, but in the
19 end we are confident that you're going to find Michael
20 Harris not guilty of all of the charges that he faces in
21 this case. Not guilty because he never had the intent to
22 defraud anyone. He felt that everyone who purchased
23 shares in his company was receiving something of value,
24 something that he put his life's work into.

25 Michael Harris is a United States olympic athlete in

1 canoeing and kayaking. He's an accomplished steeplechase
2 rider. He's the CEO and president of this company. He an
3 inventor. He's a hunter, a fisherman, a diver. He's a
4 ski instructor and coach, a gun collector, a bird
5 collector, a lady's man, and a pioneer in the AIDS
6 research and treatments.

7 What he is not is a good businessman. He is not a
8 good CEO of the company. He'd be the first one to admit
9 that. He is not organized. And he's not detailed about
10 the little things of this company, but he is also not a
11 fraudster and he is not a criminal. He's the kind of man
12 that doesn't always play by the rules, but sometimes
13 that's what it takes to make breakthrough technology and
14 to provide treatments and cures that no one else can.

15 He was raised in Harrisonburg. Went to Harrisonburg
16 High School. He attended Ferrum College. Never received
17 a degree from college. He joined the U.S. Canoe and
18 Kayaking Team in 1984.

19 He started working with medical technology at
20 Georgetown in 1996. That's where he received the
21 background and education for developing the science for
22 this company. Now, remember, the science for this
23 company, what this company is trying to do, is not an
24 issue in this case. Not an issue at all.

25 He was at Duke University. Did some medical studies

1 there. University of Virginia. Did medical studies
2 there. And in both of these places he built and developed
3 this science that he was promoting through his company.

4 In 1994, he went on a diving trip in Puerto Rico, and
5 when he was there he noticed that divers who suffered from
6 AIDS didn't have the same kind of symptoms as other people
7 with AIDS, and he theorized that it was because of the
8 nitrogen that was getting into their cells that helped to
9 keep the T-cell level down and to help keep the AIDS
10 symptoms down for those particular divers.

11 And so he took this idea, he took this hypothesis,
12 and he figured that he could replicate this kind of
13 nitrogen cell saturation in hyperbaric chambers, and so he
14 went to Duke University and started some trials at Duke
15 University involving animals. And those trials were
16 successful. Then he took a small human trial to Europe,
17 and that trial was successful. And ever since then, he
18 has been working to get a larger sample of human trials in
19 order to prove that this science works in order to bring
20 this science to the world.

21 Now, the work on the company began in 1999 based on
22 those experiences that he had in Puerto Rico, but the
23 company was actually formed in 2003 with the defendant as
24 the CEO and president of this company. And for some time,
25 he worked with this man, Matt Johnson, who later formed

1 Deep Blue. He worked with Nancy Ferguson. He worked with
2 a patent attorney named Jeff Seto. Together they tried to
3 promote and invent, in the interest of the company, the
4 science that Mr. Harris had developed. The company's
5 objectives had also been to obtain patents, to conduct
6 human trials, to do further research, but it was also to
7 find a funding source to move the company forward. A
8 large funding source to move the company forward.

9 They sought funds from Pfizer. They sought funding
10 from -- at least Mr. Harris sought funding from Glock.
11 Actually had a non-disclosure agreement signed by
12 Mr. Glock. He sought grants from Congress, from the NIH,
13 and the tried to get funding from banks.

14 Then in 2005 when he was still working with Matt
15 Johnson, there was a group called The Hill Group that was
16 a potential investor for the company. Michael Harris
17 didn't trust those people at The Hill Group, but the other
18 people felt that they should use the money from that
19 company, so there was a split between Matt Johnson, Nancy
20 Ferguson, Jeff Seto, and Michael Harris. As a result of
21 that split, Matt Johnson stole the science from Michael
22 Harris and set up a competing company, and that company's
23 principal objective was to wipe Michael Harris' company
24 out.

25 So back in 2005 they started investigations. They

1 went to state investigators, and they went to federal
2 investigators to try to bring Michael Harris' company
3 down. And those experiences are very important here. It
4 gives you some perspective, some context, on what Michael
5 Harris did from that point forward. He was very careful
6 about his company. He required every single individual
7 who invested in Michael F. Harris Research to sign a
8 non-disclosure agreement, but his objectives were always
9 to move the company forward.

10 Now, in 2006 you will hear that he received a
11 \$200,000 investment from Dr. Marosi. And the government
12 is going to go into great deal about that investment and
13 about what happened with that investment. But remember,
14 ladies and gentlemen, there is no \$200,000 fraud count
15 from 2006 that you will decide in this case. No fraud
16 count alleging that Michael Harris defrauded Dr. Marosi of
17 \$200,000 in 2006. That's not before you in this case.

18 In 2007 and 2008 he worked very hard to obtain
19 funding to keep things going in the company, to raise
20 money in different communities. One of those communities
21 you'll hear about is the horse community where he was a
22 steeplechase rider. There were a group of people from
23 Fredericksburg, and you'll hear from people in
24 Fredericksburg that he went to to try to receive money for
25 his company.

1 Finally in 2009 there was a huge breakthrough for
2 Michael Harris' company through the help of a patent
3 attorney named Dr. Rodney Sparks. And Dr. Sparks is a
4 patent attorney from the University of Virginia. He does
5 their patent work. They obtained an American patent and
6 they obtained an African patent. And the investors were
7 ecstatic. They were so excited about this breakthrough
8 for the company, they threw Mr. Harris a patent party.
9 They knew that Michael Harris was working very hard for
10 them, working very hard to promote the interests of that
11 company, but at the same time that the shareholders were
12 celebrating this accomplishment of the company, the people
13 at Deep Blue were working very hard to undermine the
14 company especially when they learned that Michael Harris
15 had obtained a patent.

16 And you heard about the 2010 shareholders' meeting.
17 Right before that shareholders' meeting there was an
18 anonymous letter that was sent out to the shareholders to
19 try to get those shareholders to lose their faith in
20 Michael Harris. We intend to show you over the course of
21 this case that it was Matt Johnson that sent that letter
22 to those shareholders, and that they in fact started
23 losing faith in Michael Harris at that shareholders'
24 meeting. You're going to hear the transcript -- you're
25 going to see the transcript of that shareholders' meeting,

1 you're going to hear some of the recordings from that
2 shareholders' meeting, and you're going to see that those
3 shareholders were concerned. They were worried. They
4 weren't worried before. Once they got that letter, they
5 started to get worried.

6 It was also at that point that the investigations
7 against Mr. Harris intensified, and unfortunately from
8 that point forward it was very difficult for the company
9 to make any progress with those investigations going on.
10 Now remember, this is the Michael F. Harris Research
11 Company. He is the company. It's a one-man show. And
12 when people invested in MF Harris Research, they invested
13 in Michael Harris. The greatest asset of the company is
14 Michael Harris, and it's our position that he was entitled
15 to be paid for his time. He was entitled to receive a
16 salary, and the investors knew, or at least should have
17 known, this.

18 Now, when you break everything down here, there are
19 six counts in this indictment, and only six counts. Four
20 of those counts are substantive counts involving the loss
21 of money. And those four counts when you put all the
22 dollar figures together equal a loss of \$27,500. Now,
23 you've seen the government's charts, and you'll see many,
24 many more charts with losses of \$800,000. Well, the
25 counts that you will decide, the fraud counts that you

1 will decide, amount to \$27,500. One count of \$10,000; one
2 count of \$7,500; and two counts of \$5,000.

3 Counts 3 and 4 of the indictment allege securities
4 fraud. Fraud and offer in sale of securities of shares of
5 stock. Now, there are two key ingredients to the fraud
6 cases that you'll hear. One is that there is a material
7 misrepresentation. A false statement by Mr. Harris to the
8 investors. And the second key ingredient is that those
9 false statements were made with the intent to defraud.

10 Without the government proving that, Mr. Harris cannot be
11 found guilty of those fraud charges.

12 Now, Counts 3 and 4 involve the Ritters and the
13 Carriers. The Ritters invested money in October of 2008,
14 and the Carriers in February of 2009. What you will see
15 from their testimony is that they cannot be relied upon.
16 Here's the reason why. After that shareholders' meeting,
17 they became aligned with Matt Johnson and Deep Blue. In
18 fact, Katie Ritter came up with a saying, a name for the
19 group that they formed. They called themselves The
20 Magnificent Seven. And The Magnificent Seven's sole
21 intent was to undermine Michael Harris' company. So they
22 were working in conjunction with the person that wanted to
23 bring Michael Harris down, a person who had an interest in
24 seeing Michael Harris fail.

25 Katie Ritter in regard to Count 3 wrote some very

1 malicious and hurtful letters to the shareholders. One
2 that she sent out anonymously, and one to the Securities
3 and Exchange Commission saying malicious and often false
4 things in those letters. So you can't rely on her because
5 of her bias that you'll see in this case.

6 You'll also hear about the Carriers. That's the
7 February of 2009 investor. They were also involved with
8 Matt Johnson. They were also part of this Magnificent
9 Seven.

10 The Carriers were given an opportunity to sell their
11 shares back to Michael Harris but they refused. They
12 said, no, we want \$1 million dollars for our shares.
13 We're not going to take the \$10,000 that we gave you. And
14 so what that demonstrates is that they had received
15 something of value from Mr. Harris. And I want you to
16 keep that in mind as you listen to the evidence and
17 consider the testimony. The investors in this case
18 recognized they had received something of value.

19 Now, Counts 5, 6, and 7 are wire fraud counts.
20 Frauds which involve the use of transfers of money or
21 e-mails. And the first is the Marosi count involving
22 Mr. Marosi, the brother of Dr. Marosi who had invested in
23 the company. This is a very different count than the
24 other counts. It doesn't allege that Michael Harris said
25 something to obtain money based on any misrepresentations

1 or alleged misrepresentations. This involves an exchange
2 of e-mails.

3 I want you to listen very carefully to the evidence
4 surrounding this particular count. Remember, it's not the
5 2006 purchase of the shares that's at issue here. It's
6 involving the conversations over the e-mail that
7 Mr. Harris had with Mr. Marosi. And it's important to
8 understand when this \$200,000 was invested in Mr. Harris'
9 company that it was towards the very beginning of that
10 company. The very initial stages of that company. And at
11 that point, Mr. Harris believed that he would be getting
12 more large investments, a lot more money like the money he
13 received from Dr. Marosi, so he needed a base of
14 operations. He needed a place to run his business from.
15 And you will hear his home is where he ran his business
16 from. It's where his base of operations was.

17 Now, you'll see and you'll hear that Mr. Marosi was a
18 very litigious man. That's one reason why you can't rely
19 on him. He sued just about every person who was involved
20 in the estate of his dead brother. He had an axe to grind
21 with everyone.

22 Count 6 involves a man named Dave Evans. The \$5,000
23 investment in 2008. The wire that's involved in this wire
24 fraud charge, the e-mail that's involved in this wire
25 fraud charge, is very important. Attached to that e-mail

1 were several documents that Mr. Harris provided to
2 Mr. Evans in order to get him to invest in the company.
3 One of those items, or two of them, were newsletters.
4 Newsletters from August and September of 2007. And they
5 discussed what the company was doing, what Michael Harris
6 was doing to move the company forward, all the different
7 organizations that he was going to to try to obtain
8 funding for the company. All the problems that he was
9 having with Deep Blue were in those newsletters.

10 He also received what we're going to refer to quite
11 frequently in this trial, the 2006 Congressional Budget
12 Proposal. Now, in this Congressional Budget Proposal
13 which Mr. Harris sent to Mr. Evans as part of the package
14 for his investment was an attachment in that package.
15 What it included was that the CEO and president of this
16 company receives a salary, office expenses, and travel
17 expenses. All of that is part of the e-mail that he sent
18 to Mr. Evans to get Mr. Evans to invest in the company.

19 Now, you're also going to see that there is the white
20 notebook that Michael Harris brought to virtually every
21 presentation he made to investors. And in that white
22 notebook was that same 2006 report, the report which
23 provided information to investors that he was entitled to
24 a salary. So Mr. Evans certainly knew, or should have
25 known, from the attachment from this e-mail that

1 Mr. Harris was very likely to take a salary.

2 Count 7 involves a woman named Diane Desch. And
3 that's a very sad situation with Ms. Desch. She had a
4 personal relationship with Mr. Harris. She knew
5 Mr. Harris very well. She knew about his lifestyle, she
6 knew about his financial problems, and she had some
7 serious problems of her own. At the same time as this
8 investment with Mr. Harris, at the same time she was --
9 and the government has referred to the \$3,000 for shoeing
10 the horse as a loan, you will see that that was a gift
11 from Ms. Desch to Mr. Harris.

12 But at the same time that this was going on, her
13 relationship with Mr. Harris was going on, she got
14 involved in a terrible scam where she was scammed out of
15 hundreds of thousands of dollars. She also had brain
16 surgery about this time. A brain surgery which affected
17 her memory. So a very sad, sad situation. But
18 unfortunately with so much going on in her life, it's
19 going to be difficult to rely on Diane Desch for
20 information that would show that Mr. Harris made any
21 misrepresentations to her.

22 Count 8 is a count involving Nicki Gentry. And she's
23 a police officer from Fredericksburg. That's also a very
24 different count from all of the other counts that you'll
25 see in this case. It involves what's called allegations

1 of lulling. Now, lulling is when an investor tries to --
2 tries to give his investors -- excuse me. It's when a
3 person who is accused of fraud is trying to give his
4 investors a false sense of security to avoid criminal
5 detection, or to lull investors to not report fraud to law
6 enforcement. Now, the odd thing about this charge is that
7 it's a lulling charge involving a police officer.
8 Involving a law enforcement officer who should know fraud
9 when she sees it. Now, this involves statements that were
10 made at a shareholders' meeting in 2010. Statements that
11 were made allegedly to lull the investors into a false
12 sense of security.

13 Well, you're going to hear all of the statements that
14 were made. The government is going to want to cherry pick
15 the statements that they like from the meeting, but what
16 he told the investors at that time was that the company
17 was broke. What he told the investors at that time was
18 that he was not the right person to run this company.
19 Now, I want you to think for yourselves, is that the kind
20 of statement that someone makes to lull people, to lull
21 investors, into a sense of security?

22 Now, some general things I want you to keep in mind
23 about all of the witnesses that you hear from in this
24 case. One is the Matt Johnson influence. Matt Johnson
25 and Deep Blue. Several of these people that you will hear

1 from, the Ritters, the Carriers, Joe Newcome, they were
2 part of this Magnificent Seven group. They were meeting
3 with Matt Johnson. They were conspiring with Matt Johnson
4 to undermine Michael Harris and Michael Harris' company.

5 But there's another influence that I want you to
6 think about, too. And remember, you have to focus on the
7 statements that Michael Harris made. You heard a lot in
8 the opening statement from the government about the
9 financials in this case. Well, this case comes down to
10 statements to alleged misrepresentations and the intent to
11 defraud. And what you're going to see is lots of these
12 witnesses have what we'll call hindsight bias. Most of
13 the statements at issue, most of the allegations of
14 misrepresentation that were made by Mr. Harris, were made
15 four and five years ago. Even eight years ago.

16 The investors are trying to recall these statements
17 from a long time ago. And remember, no one wrote those
18 things down. There's not a single shred of evidence that
19 will show that any of the investors at the time they were
20 given this pitch by Mr. Harris wrote anything down.
21 Investors are trying to recall these statements from a
22 long time ago. And remember that the statements that
23 they're recalling are now being made in light of a
24 criminal prosecution and a criminal investigation in light
25 of the fact that they have not received any returns on

1 their investments. Please keep this in mind as you listen
2 to the testimony of the witnesses in this case.

3 Now, you're going to hear from Rodney Sparks. And
4 there's going to be some discussion about the patent in
5 this case and whose name the patent was in. And Rodney
6 Sparks is going to clear up any questions that you may
7 have about that patent. He's going to talk about start-up
8 companies and how start-up companies work. He's a very
9 credible witness. A very helpful witness. And this is a
10 man who worked with Michael Harris for several years.

11 But in the end what we will show you is that Michael
12 Harris never had any intent to defraud. The government
13 talks about pulling back the curtain in this case, well,
14 there's no need to pull back any curtain in this case
15 because what you're going to see is that Michael Harris
16 didn't intend to defraud anyone.

17 You're going to hear about a term called "*good*
18 *faith*." And good faith is a concept in the law that if an
19 investor or someone accused of fraud told that he was
20 going to do something with the money and had a good faith
21 belief in what he told those investors, then he can't be
22 found guilty of fraud. He can't have created the intent
23 to defraud or deceive.

24 What Michael Harris told those investors time and
25 time again was that he was going to move the company

1 forward. Everything he did in his life, everything he did
2 with his company, his passion, was going to move the
3 company forward.

4 You're also going to hear about concepts of burden of
5 proof and reasonable doubt. It is always the government's
6 burden to prove the defendant guilty, and they must meet
7 that burden to a standard of beyond a reasonable doubt.
8 That is a very high standard, ladies and gentlemen. And
9 as to each count you consider, as to each element of those
10 counts, the government must prove guilt beyond a
11 reasonable doubt.

12 Remember, this is a federal criminal case. These are
13 felony charges against Mr. Harris. It's not just about
14 money that was invested in the company, it's about
15 Mr. Harris' life, his future, and his freedom. Please pay
16 close attention to the evidence in this case, listen
17 carefully to the witnesses, and we're confident that by
18 the end of this trial you will find Mr. Harris not guilty.
19 Thank you.

20 THE COURT: Ladies and gentlemen, given the hour,
21 we're not going to begin with the first witness. We're
22 going to take our luncheon recess for one hour. A couple
23 of cautionary comments.

24 First of all, I neglected earlier today to advise you
25 on using any kind of Internet or social media during the

1 course of this case. Probably don't need to, but the law
2 requires me to advise you that you may not discuss this
3 case using any kind of social media with anyone else.

4 You also cannot consult any Internet sources for
5 information about the case, about any of the witnesses,
6 any of the corporations, or any of the events that you
7 hear about during the course of this trial.

8 Now, ladies and gentlemen, at this point we're going
9 to recess for one hour. Remember, do not discuss the case
10 among yourselves or with anyone else. Have a pleasant
11 lunch. We'll see you back here at 2:00. You're excused
12 until then.

13 Be sure to leave your pads right there on your chair.

14 (The jury is no longer present in the courtroom.)

15 THE COURT: Mr. Gill, I assume you will be ready to
16 go right at 2:00.

17 MR. GILL: We are indeed, Your Honor.

18 THE COURT: All right. Very well.

19 We'll recess until 2:00. See you all back here then.

20 (Recess taken.)

21 THE COURT: Ready for the jury?

22 MR. GILL: We are, Your Honor.

23 MR. WAGNER: Yes, sir.

24 THE COURT: Bring the jury in, Marshal.

25 (The jury is present in the courtroom.)

DIRECT EXAMINATION OF DAVID EVANS

122

1 THE COURT: Ladies and gentlemen, next you will hear
2 the government's evidence.

3 Mr. Gill.

4 MR. GILL: Your Honor, we call David Evans.

5 THE COURT: David Evans.

6 Mr. Evans, if you would raise your right hand, place
7 your left hand on the Bible, and face the Clerk of the
8 Court.

9 THE CLERK: You do solemnly swear that the testimony
10 which you are about to give, in this case, before this
11 Court, shall be the truth, the whole truth, and nothing
12 but the truth, so help you God?

13 MR. EVANS: I do.

14 THE COURT: Have a seat on the witness stand,
15 Mr. Evans.

16 All right, Mr. Gill, you may inquire.

17 MR. GILL: Thank you, Your Honor.

18 Whereupon, **David Evans**, having been
19 duly sworn in, testifies as follows:

20 **DIRECT EXAMINATION**

21 BY MR. GILL:

22 Q Good afternoon. Would you please introduce yourself
23 to the jury.

24 A David Evans.

25 Q Where do you live, Mr. Evans?

DIRECT EXAMINATION OF DAVID EVANS

123

1 A Portsmouth, Virginia.

2 Q Will you tell the jury a little bit about how long
3 you lived in Portsmouth, Virginia and what you do for a
4 living?

5 A I've lived in Portsmouth since 1975. I came there
6 originally when I was in the Navy. Currently I work for
7 the Norfolk Naval Shipyard. I'm the Dock Master for the
8 shipyard. I oversee and direct all the docking evolutions
9 that occur within the shipyard, all the movements on the
10 piers and the berths, and also the destructive weather
11 manager for the shipyard.

12 Q And you mentioned you're with the Navy. How long
13 were you with the Navy?

14 A Four years, nine months.

15 Q And what rank were you when you left the Navy?

16 A E-5.

17 Q Now, at some point have you worked also at Gitmo?

18 A Yes. While I was at the shipyard, I took a job in
19 Guantanamo Bay from 2005 to 2008. We transferred down
20 there. Still worked for the Department of Defense. Just
21 took a job down there for a few years.

22 Q Mr. Evans, I want to ask you, do you know Michael
23 Harris?

24 A I do.

25 Q Do you see him here today?

DIRECT EXAMINATION OF DAVID EVANS

124

1 A Yes. Right there.

2 MR. GILL: And, Your Honor, may the record reflect he
3 identified the defendant?

4 THE COURT: It will so reflect.

5 Q How long have you known Michael Harris?

6 A I guess since like 2002, 2003. I know it was a few
7 years before we went to Guantanamo.

8 Q How is it you first met him?

9 A Through scuba diving. He met a friend of mine one
10 time at a boat ramp. I believe he had left a spear gun
11 out on one of the wrecks, so my friend gave him a ride
12 back out there to retrieve it. And then through my friend
13 I eventually met him because, you know, there was a group
14 of us that go scuba diving together quite a bit. We have
15 our own boats and stuff so, you know, I met him through
16 scuba.

17 Q And what was the name of your friend that you met him
18 through?

19 A Bill LaDow.

20 Q Now, how did your relationship develop with the
21 defendant after you first met him?

22 A It was just like I said. It was just casual. You
23 know, just strictly occasionally see each other going
24 scuba diving either on the same boat or on a different
25 boat.

DIRECT EXAMINATION OF DAVID EVANS

125

1 Q Did you consider him a friend?

2 A Sure.

3 Q Did you know what he did for a living back when you
4 first started to get to know him?

5 A No. When I first met him I didn't really know what
6 he did.

7 Q At some point later did you learn what he did?

8 A I never really knew what he did for a living. I
9 mean, a few years later, again, Mr. LaDow told me about
10 the business venture that he was involved in with the
11 research that he had done at Duke University, you know,
12 coming up with a treatment and a means for putting AIDS
13 into remission.

14 Q Now, eventually did you actually seek out an
15 investment with the defendant?

16 A I did. That was after I came back from Guantanamo.
17 So it was in 2008. I believe we were at Hatteras, and we
18 were supposed to go scuba diving on my boat and the
19 weather wasn't conducive for going so we ended up
20 canceling the dive. But while we were down there that
21 weekend, yeah, I asked him if he still had, you know,
22 share options available in the business that he had.

23 Q About what time? You said 2008. When was this
24 about?

25 A Had to be -- had to be like in July. You know, I

DIRECT EXAMINATION OF DAVID EVANS

126

1 think I actually made the investment in August. So it had
2 to be in July because we didn't come back until June of
3 '08.

4 Q What did he tell you when you asked him if he was
5 still selling?

6 A He said, yeah. That he had set aside I forget how
7 many millions of shares that were available for friends
8 and family, and that there were still some available.

9 Q What did you do next to pursue a potential
10 investment?

11 A Well, we set up an appointment with him. He came to
12 our house in Portsmouth for, you know, me and my wife.
13 And he gave me -- I believe he had a PowerPoint
14 presentation on his computer. He had some documents in a
15 binder, you know, that he went through and kind of
16 explained, you know, how he had developed this treatment
17 using a hyperbaric chamber to treat AIDS and put it into
18 remission. And, you know, I was a scuba diving
19 instructor, so I was a bit familiar with, you know,
20 partial gasses, and that sort of stuff, when you're under
21 pressure from scuba diving. So, I mean, it sounded like,
22 you know, sort of a viable option. They've been treating,
23 you know, gangrene and that sort of thing with hyperbaric
24 treatment for years.

25 Q So tell us about the length of the presentation. How

DIRECT EXAMINATION OF DAVID EVANS

127

1 long was the presentation that he did for you and your
2 wife?

3 A Well, you know, I'm not sure. Probably -- I'm sure
4 it was at least an hour, you know. But, you know, we went
5 through the presentation. He went over some documents
6 with us and, you know, some different things like that.

7 Q Now describe for the jury going through the documents
8 and this presentation, you know, what was he talking about
9 as far as the nature of what the company was doing and the
10 potential for investment?

11 A Well, the first part of it was actually how the
12 treatment, you know, basically how it worked by putting
13 the disease into remission. And then about, you know,
14 applying for patents, you know, overseas in Europe as well
15 as the United States to get the treatment -- you know, get
16 a patent approved for the treatment before he actually
17 went public and potentially tried to start marketing it.

18 Q What did he tell you and your wife your money would
19 be used for if you invested?

20 A Well, we had to complete the patent process. I
21 believe at that time -- I'm not sure if the European
22 patent had already been approved. He was applying for one
23 over there. He also had applied for one in the United
24 States. As soon as the patents were finished, you know,
25 then the clinical trials had to be done, you know, to

DIRECT EXAMINATION OF DAVID EVANS

128

1 prove the treatment worked before you could actually
2 market the product.

3 Q What was he going to do with your dollars if you put
4 them in, according to what the defendant said?

5 A Complete that research, finish getting the patents
6 approved, and get the clinical trials done.

7 Q How clear was he about that?

8 A To me it was crystal clear.

9 Q How imminent or close was he to, you know, getting
10 the clinical trials according to what he was saying?

11 A Well, I mean, at the time it seemed like he was
12 pretty close. It didn't seem like it was going to be a
13 real lengthy process. I mean, I know that when you apply
14 for a patent that it can take some time. But, you know,
15 we felt like between the European patent and the one in
16 the United States that it wouldn't be too long before
17 there would be trials beginning.

18 Q As he's doing this presentation for you and your
19 wife, at any time did he go through and talk to you about
20 salary or using any part of your investment for salary or
21 personal expenses?

22 A You know, I don't recall anything about any kind of
23 salary. You know, I think we had some discussions about
24 expenses because I knew there were fees and stuff
25 associated with doing the patents. That he was probably

DIRECT EXAMINATION OF DAVID EVANS

129

1 going to have to go back overseas again to finish stuff
2 over there. So certainly fees associated with getting
3 that done. But nothing other than that.

4 Q Now, what did you and your wife decide to do after
5 the presentation?

6 A Well, we decided to go ahead and buy some of the
7 stock. The minimum you could get was \$5,000, so we
8 decided to go ahead and invest that amount.

9 Q Who did you rely upon in making that decision that
10 you felt comfortable that you would invest your money in
11 this?

12 A Well, I mean, my wife and I discussed it somewhat,
13 and we relied on the information Mr. Harris gave us.

14 Q Now after the meeting, did Michael Harris, the
15 defendant, send you information?

16 A Yeah. He sent me some stuff on e-mail, you know. I
17 mean, one of them of course was where to wire transfer the
18 money to, and then there were some other documents that
19 were also e-mailed to us.

20 Q Take a look at the documents in front of you, sir.
21 And please look at Exhibit 35. Thumb through it and tell
22 us if you recognize that document?

23 THE COURT: Did you say 35, Mr. Gill?

24 MR. GILL: Yes, Your Honor.

25 A Yes. I recognize this.

DIRECT EXAMINATION OF DAVID EVANS

130

1 Q What is this, sir?

2 A It's just kind of an overview of the people involved,
3 the company, you know, a summary of what the company was
4 about, the initial research. You know, kind of a, you
5 know, a bio type thing on some of the key people that were
6 involved in the research of the company.

7 Q And did all of this come to you via e-mail?

8 A Yes.

9 MR. GILL: Your Honor, we move for --

10 THE COURT: Any objection to 35?

11 MR. WAGNER: No.

12 THE COURT: Be received without objection.

13 (Government's Exhibit 35 is received.)

14 Q If we could, we're going to take a look at Page 1.
15 And it will be on the screen there in front of you,
16 Mr. Evans.

17 MR. GILL: If we could, let's focus on the little
18 part there, Ms. Taylor. I'm sorry. The e-mail address up
19 top first. There we go.

20 Q Now, Mr. Evans, looking at this, tell us do you
21 recognize your e-mail address on that?

22 A Yes.

23 Q What is your e-mail address?

24 A XXXXXXXXXXXXX@gmail.com.

25 Q Were you in Portsmouth, Virginia when you received

DIRECT EXAMINATION OF DAVID EVANS

131

1 this e-mail from the defendant?

2 A Yes.

3 Q Do you recognize the defendant's e-mail address?

4 A I do.

5 Q Is that xxxxxxxxxxxx@MSN.com?

6 A Yes.

7 Q The jury can read this e-mail. Generally tell us
8 what it is that he is conveying to you with this e-mail.

9 A Well, like I say, there were some documents attached
10 to it and, you know, just basically as you can see there,
11 welcoming us to the project. Giving us the bank
12 information that we needed to transfer the funds to. And
13 then of course, you know, you see the last sentence there
14 about possibly doing some more diving together.

15 MR. GILL: If we could scroll down a little bit.

16 Q And it's signed Michael F. Harris, CEO?

17 A That's correct.

18 Q Now, did you ever visit Mr. Harris in Luray,
19 Virginia?

20 A I did. We went up to -- we went with some friends of
21 ours. As soon as we got back from Gitmo it was over the
22 July 4th weekend of 2008, they had just bought an RV, and
23 we went to, I believe it's called, Endless Caverns. I
24 knew Mike lived up in that area, or very close to there,
25 so we gave him a call over there and we actually drove

DIRECT EXAMINATION OF DAVID EVANS

132

1 over to his house and had a little cookout and had dinner
2 with him one night.

3 Q Do you remember anything about the house?

4 A Old farm house up, you know, on a hill. It was --
5 you know, he was doing quite a bit of renovation to the
6 house. Nothing -- nothing specific.

7 Q Do you recall any horses on the property?

8 A No, not right there on the property. No.

9 MR. GILL: If we can go back up just a little bit.

10 Q And finally with respect to where you were going to
11 send your money. What account did the defendant instruct
12 you to send it to?

13 A I mean, it wasn't -- just this one that's listed on
14 the e-mail. Just gave us a routing number and the
15 account, MF Research. That was all we were given.

16 Q Did you understand your money was going into the
17 company?

18 A Yes.

19 Q Now, did you review the materials that he had sent to
20 you?

21 MR. GILL: If we could scroll up now to the top.

22 Q Were there attachments that he sent with this e-mail?

23 A Yeah, I'm sure I looked over those. I sent them to
24 myself there, as you can see at my work e-mail, because
25 again we had just come back from overseas and we didn't

DIRECT EXAMINATION OF DAVID EVANS

133

1 even have a printer in our house yet. We hadn't gotten
2 our household goods yet. And I believe a couple of these
3 documents we had to sign and either fax back or send back
4 to him, like the non-disclosure agreement. So that was
5 part of the issue with him e-mailing us the documents.

6 Q And explain to the jury, and we'll see it in a
7 moment, what did you understand from the defendant to be
8 the importance of the non-disclosure agreement?

9 A Well, basically it was just so that anyone that was
10 investing in the company wouldn't take any of the
11 information about the treatment and, you know, go to
12 another company or share that -- or share that information
13 with people outside of the company.

14 MR. GILL: Now if we could look at Page 2 of Exhibit
15 35.

16 Q And generally what is this, sir?

17 A Well, I think this was just kind of an overview
18 stating about, you know, the present treatment for AIDS
19 was, you know, was the different types of medication was
20 the only treatment that there was, and that this new form
21 of treatment was not using drugs but using a hyperbaric
22 treatment to put the disease in remission. And he had
23 kind of discovered this while he was down in the Caribbean
24 doing some diving down there. And, you know, he found
25 that these people that had the disease that were doing

DIRECT EXAMINATION OF DAVID EVANS

134

1 these deep dives on a repetitive basis were putting their
2 disease in remission. I think that's what started him
3 down the path of doing the research for the treatment.

4 MR. GILL: And let's look at the last paragraph on
5 Page 2, please. If we could zoom in a little more on
6 that.

7 Q Tell us what you recall about this, and whether it
8 fit with what the defendant was telling you during his
9 presentation to you and your wife.

10 A Yes, it did. And again, it was, as I stated earlier,
11 being a scuba diving instructor. And also I was a
12 corpsman in the Navy when I was in the Navy so, I mean, I
13 understood, you know, when you go diving that your blood
14 overloads itself with nitrogen, you know, and this
15 treatment was kind of based around that. That the
16 increased partial pressures and the nitrogen in your
17 bloodstream was having an effect on the diseased cells and
18 putting them into remission.

19 Q How about the last part there with respect to where
20 the company was planning to go next?

21 A Well, yeah, you know, he had done the initial
22 research at Duke University and then, you know, he had
23 left there. And so he talked about animal trials that had
24 been completed and, you know, he was ready to proceed with
25 going into Phase II which would be the actual clinical

DIRECT EXAMINATION OF DAVID EVANS

135

1 trials, but that we needed to get the patents approved and
2 completed first.

3 Q Were these the areas where your money was going to be
4 spent based on what the defendant told you?

5 A Yes.

6 MR. GILL: Let's look at Page 5. And focus in on the
7 upper portion.

8 Q This is a summary of the defendant's background. And
9 tell the jury what you understood from the defendant about
10 his background.

11 A Well, I knew he'd been involved with the medical
12 fields, you know, again, working at Duke University. You
13 know, this just lays out some of the previous jobs that he
14 had had, you know. And, you know, again, that he had done
15 these preliminary studies on the animals using the
16 hyperbaric chamber to treat them.

17 Q In there it also says in the middle. It says, "*In*
18 *1994, he set up his own company, M.F. Harris Research,*
19 *Inc.*" Is that what you understood from the defendant?

20 A Yes. Yeah, he has set up a company to complete the
21 research for the ideas and to, you know, be able to apply
22 for patents to get the treatment actually patented so
23 that, you know -- that before he went public with it that
24 nobody else could take the idea.

25 MR. GILL: If we could just scroll back, please.

DIRECT EXAMINATION OF DAVID EVANS

136

1 Q Is there also information in this packet he sent you
2 about other doctors involved with this, according to the
3 defendant?

4 A Yeah, I remember him going over some stuff like that.
5 That there were some other doctors that were involved in
6 the research and development of the treatment.

7 Q Overall, how did his presentation and what he was
8 saying to you, how did it make you feel about your
9 investment?

10 A We felt like it was a sound investment, you know,
11 especially back then, you know, several years ago. You
12 know, you don't hear as much about AIDS and stuff right
13 now, but, I mean, back then if this was a treatment that
14 was going to be something besides these drug cocktails
15 that you heard about everybody taking for years and years
16 and never could cure the disease, and if this was going to
17 be able to put it in remission, it sounded to us like it
18 would be something definitely worthwhile to invest in.

19 MR. GILL: If we could look at Page 8.

20 Q Now this synopsis, let's focus in on the first
21 paragraph, please. And tell the jury if that fits with
22 the information that the defendant had told you about this
23 process.

24 A Yes. Yeah, like I say, when he was -- he'd been down
25 in the Caribbean and then, you know, just like it states

DIRECT EXAMINATION OF DAVID EVANS

137

1 here he had heard about these people that were -- that
2 were HIV positive and that, you know, with their diving
3 that they did down there, you know, that when they would
4 go in and have the treatments if they got bent from doing
5 these repetitive deep dives, that it seemed to be putting
6 the disease in remission.

7 MR. GILL: If we could please zoom back out and focus
8 in on the third paragraph.

9 Q And tell the jury whether this fits with anything
10 that he told you about how he initially financed this
11 according to the defendant.

12 A Yeah. I remember him talking, you know, about the
13 horses and stuff that he had at that time, but not a lot
14 of specifics about it.

15 MR. GILL: And then let's look at the last paragraph
16 of the synopsis, and also the signature at the bottom.

17 Q Signed "*Michael Harris*." That last paragraph, is
18 that what you understood him to be raising funds for when
19 he was soliciting you and your wife in Portsmouth,
20 Virginia?

21 A Yes. Yeah. Yeah. Yeah, they had done the safety
22 trials which, of course, you have to have that completed
23 before you can even go to the clinical trials. And then,
24 yeah, again, going forward with the patents to get the
25 patents approved, you know, and then going to complete

DIRECT EXAMINATION OF DAVID EVANS

138

1 clinical trials so that you can actually have a marketable
2 product.

3 MR. GILL: And if we can look at Page 9.

4 Q Is this also an item that he sent to you?

5 A Yes.

6 Q Now during his presentation, did he go through these
7 documents with you and your wife?

8 A I believe that he did go through most of them. I
9 mean, I can't -- I can't say for sure if we looked at
10 every one of these page-for-page. But, yes, he had a lot
11 of these documents either on his computer or in his binder
12 that he was using for the presentation.

13 MR. GILL: Let's look at Page 11, which is in this
14 packet. If we could please focus on "*Funding Details*."

15 Q And tell the jury whether the "*Funding Details*"
16 description there fits with what the defendant told you is
17 going to be done with your money.

18 A Yeah. I mean, like I said, he spoke about this that,
19 you know, the fees that were there to perform the
20 treatments as well as getting the patents approved and
21 that, you know, that's what the money was going to be used
22 for if people invested in the company.

23 Q Based on what he was telling you, was it your
24 understanding it was at the second study according to what
25 he was telling you and your wife?

1 A Yes.

2 MR. GILL: If we could just scroll down a little bit.

3 Q So, "*Second Study, (Efficiency) Hyperbaric*
4 *Treatments, Duration,*" did he talk to you about that
5 generally?

6 A Where are we at?

7 Q On Page 11. If you will look on the screen,
8 actually. I'm sorry.

9 A Yeah, I believe that's the way it was briefed to us.
10 That the Phase I trials had already been completed, that
11 the patents had already been approved for, and now we were
12 proceeding with the second portion of the study.

13 MR. GILL: Now, if we can look at Page 12. The very
14 next page. And let's focus in right here, please.

15 Q Now this says, "*Start Up Marketing Costs after Second*
16 *Study Hyperbaric Treatment.*" So "*after*" is what he was
17 talking to you about?

18 A Uh-huh. That's correct.

19 MR. WAGNER: Objection to leading the witness, Your
20 Honor.

21 THE COURT: I think he's drawing his attention to it,
22 but to the extent that your questions are suggestive of
23 the answer, please do not form them that way.

24 MR. GILL: Absolutely, Your Honor.

25 THE COURT: Objection sustained. Go ahead.

DIRECT EXAMINATION OF DAVID EVANS

140

1 Q Mr. Evans, tell the jury what part of the process you
2 understood this to be in relation to the Phase II trials
3 that the defendant was talking to you about?

4 A You know, I don't remember specifically going over
5 this part of this document. But, I mean, again, when I
6 read this over, I thought this was the cost of the -- once
7 the company was up and running and you were actually
8 started into the second phase of the treatment process
9 that this would be the cost that would be incurred.

10 Q After the testing was done that you and your wife
11 were investing in?

12 A That's correct.

13 MR. WAGNER: Objection to leading, Your Honor.

14 THE COURT: Objection's overruled. Go right ahead.

15 Q Your answer to that, sir?

16 A Yes. That's correct.

17 Q Okay. And just to be clear, tell the jury, at any
18 time during this presentation did Michael Harris say he
19 was going to be taking some kind of salary or this portion
20 of this money for himself?

21 A No.

22 Q If he had told you that he was going to take the
23 money for a salary, would that have had an affect on your
24 investment?

25 A Yes, it would.

DIRECT EXAMINATION OF DAVID EVANS

141

1 Q Tell the jury what affect, if any, it would have had.

2 A If I thought he was going to use my money for salary,
3 I wouldn't have given him any of my money.

4 MR. GILL: Let's look at Page 14 of Exhibit 35. Now,
5 if we can just focus on the upper portion.

6 Q This is a newsletter. Tell the jury what you recall,
7 if anything, about Deep Blue and Jeffrey Seto.

8 A The only thing I really recall about him speaking
9 about this was that this was why he was trying to get the
10 patents approved as soon as possible because he was afraid
11 these people were going to take his research ideas and try
12 to market it themselves.

13 Q At any time when he was talking to you and your wife,
14 did he present to you that somehow the company would not
15 move forward because of Deep Blue and Jeff Seto?

16 A No.

17 Q Take a look at Page 15, the very next page of this
18 newsletter. Tell the jury, did it have any information
19 about the company moving forward and what they were going
20 to do about Jeffrey Seto and Deep Blue?

21 A Again, I don't recall any specifics about that
22 company other than the fact that this was why he was
23 trying to get the patents approved as soon as he could.

24 MR. GILL: And let's look at Page 17, which is the
25 last page of this newsletter.

DIRECT EXAMINATION OF DAVID EVANS

142

1 Q Does this have various action items?

2 MR. GILL: I'm sorry. The last page. I apologize.

3 Page 16. I apologize.

4 Q Looking at Page 16, which would be "Page 3 of 4,"

5 were there various future plans included in that

6 newsletter?

7 A Yes.

8 Q Including?

9 A Again, they're listed there. The patent application
10 approval. That was the first one. And then I think he
11 was trying to apply for a grant.

12 MR. GILL: Go over to the other side.

13 A Yeah, the clinical trials. That was the big thing.

14 That he was -- talked to us about the patent approval and
15 then the clinical trials.

16 Q In fact, here in bold it says, "*Phase II clinical*
17 *trials: We need to raise \$1.5 million to complete the*
18 *trials we have the facilities and the patients and signed*
19 *contractual agreements.*"

20 A Right.

21 Q Tell the jury how imminent did you think all this
22 was?

23 A Well, I mean, we thought it was pretty imminent.

24 Like I said, I knew there was a process to go through to

25 get a patent. Anytime you're, you know, going through the

DIRECT EXAMINATION OF DAVID EVANS

143

1 U.S. Patent Office that there's some time delay with that,
2 but we felt like as soon as that was done that the Phase
3 II trials would begin.

4 Q Now then, if you would take a look at Exhibits 36 and
5 37 there in front of you, sir. Tell us what those are.

6 A Thirty-six is the non-disclosure agreement. And 37
7 is the subscription agreement.

8 Q Did you execute those in relation to your investment
9 with M.F. Harris Research, Inc.?

10 A Yes, I did.

11 MR. GILL: Your Honor, we move for admission of
12 Exhibits 36 and 37.

13 THE COURT: Any objection, Mr. Wagner?

14 MR. WAGNER: No, Your Honor.

15 THE COURT: Thirty-six and 37 will be received. You
16 may publish them to the jury if you wish.

17 MR. GILL: Thank you.

18 (Government's Exhibits 36 & 37 are received.)

19 Q First off, let's look at the bottom. Who signed this
20 and when?

21 A That's my signature and my wife's signature. August
22 the 6th of 2008. The other one, 37, is both of our
23 signatures with no date.

24 Q If we could just back up on Exhibit 36, the
25 non-disclosure agreement. Just generally tell the jury

DIRECT EXAMINATION OF DAVID EVANS

144

1 what you understood to be the effect and necessity of this
2 document.

3 A It was -- the way it was explained was just that, you
4 know, after seeing the presentation and how the treatment
5 worked and how it was going to be used, that you were not
6 to disclose that to anyone who's outside of the project.

7 Q Let's zoom in just on the middle. Is that just
8 basically the circumvention language there in the middle?
9 It says you and your wife are not to talk to anybody about
10 this?

11 A That's right. Yes.

12 MR. GILL: Let's see Exhibit 37, which is the
13 subscription agreement. Focus in on the upper paragraph,
14 please.

15 Q Tell us what the date of this agreement was, and who
16 your agreement was between.

17 A The 6th of August, 2008. And it was between me and
18 my wife and M.F. Harris Research, Incorporated.

19 Q Based on what the defendant was telling you, who were
20 you investing in with this agreement?

21 A M.F. Harris Research, Incorporated.

22 Q How many shares were you buying, and what was the
23 price of the shares?

24 A It was 5,000 shares at a dollar a share.

25 MR. GILL: Scroll down a little bit.

DIRECT EXAMINATION OF DAVID EVANS

145

1 Q Now then, Paragraph 3 (a) talks about that you
2 *"Acknowledges that the undersigned or the undersigned's*
3 *representative has had access to the same kind of*
4 *information concerning the Corporation that is required by*
5 *Schedule A of the Securities Act of 1993, to the extent*
6 *that the Corporation possesses such information."*

7 Tell the jury, were you able to see any financials in
8 relation to your investment?

9 A No.

10 Q To this day have you seen any financials for M.F.
11 Harris Research, Inc.?

12 A No.

13 Q Now then, Paragraph (b). Let the jury read that for
14 a moment. 3(b).

15 Sir, does that basically talk about representing if
16 you have the knowledge and experience to evaluate the
17 risks of this investment?

18 A Yes. That's correct.

19 Q Who were you relying upon in making your decision on
20 whether or not you were going to invest, and what your
21 money was going to be used for?

22 A We were basing it off of Mr. Harris' presentation.

23 MR. GILL: And then finally 3(d).

24 We'll let the jury read that for a moment.

25 Q Now with respect to this investment, did you

DIRECT EXAMINATION OF DAVID EVANS

146

1 understand that you can go out and just sell these shares
2 if you wanted to?

3 A You know, I believed that the -- until the patent was
4 received and that the company actually went public, I
5 don't believe you're supposed to be selling your shares.

6 Q Did you believe based on everything that you've read
7 and what you understood that the stock shares belonged to
8 you and your wife, as well as your estate, if something
9 happens to you?

10 A Yes. Yes.

11 Q Now then, how much money did you and your wife decide
12 to put into this?

13 A Five thousand dollars.

14 Q Take a look at Exhibit 38. And do you recognize the
15 first page referencing the account that you used for your
16 investment?

17 A Yes.

18 Q Is that your account at Navy Federal Credit Union?

19 A Yes, it is. That's correct.

20 MR. GILL: Your Honor, we move for admission of 38,
21 which is business and bank records.

22 THE COURT: Any objection, Mr. Wagner?

23 MR. WAGNER: No, Your Honor.

24 THE COURT: Be received without objection. You may
25 publish it to the jury.

DIRECT EXAMINATION OF DAVID EVANS

147

(Government's Exhibit 38 is received.)

MR. GILL: See Page 1. If you can zoom in on the upper portion here, please.

Q And tell us when was it that you actually sent the money to the defendant for this investment?

A August 15, 2008.

Q And does that reference M.F. Harris Research, the company that your money is going to?

A Yes, sir.

Q And Navy Federal Credit Union, Washington, is that your bank account?

A Yes, it is.

Q According to the defendant, what he told you and your wife, what was this money going to be used for?

A To complete the process of -

MR. WAGNER: Ask and answered.

A - securing the patents, and to complete the clinical trials to eventually get to a marketable product.

MR. GILL: I won't ask again. I apologize, Your Honor.

Q Now, after the investment, how often, tell the jury, would you receive updates on the status of the company or your investment?

A I never really received any kind of updates.

Occasionally I would get a call from Mr. Harris. And I

DIRECT EXAMINATION OF DAVID EVANS

148

1 told him on different occasions that I wasn't receiving
2 any kind of e-mails or anything. He was -- he would call
3 occasionally and ask if we had received anything from this
4 Deep Blue company. I guess someone had given the e-mail
5 addresses of some of the investors to that company. But
6 again, I never got anything from him or them.

7 Q If you will take a look at Exhibit 39. Do you
8 recognize that?

9 A Yes, I do.

10 Q What is that?

11 A That's the certificate that we received after
12 transferring the money.

13 THE COURT: Any objection to 39, Mr. Wagner?

14 MR. WAGNER: No.

15 THE COURT: Be received. You may publish it if you
16 wish.

17 (Government's Exhibit 39 is received.)

18 Q Is this the stock certificate you received in M.F.
19 Harris Research, Inc. following your investment?

20 A Yes. That's correct.

21 Q How quickly after your investment did you receive
22 this, if you recall?

23 A I mean, I think it was fairly quickly. I don't
24 remember a real time frame. But, you know, once we
25 transferred the money up to the account and got

DIRECT EXAMINATION OF DAVID EVANS

149

1 confirmation that that was done, he mailed us the
2 certificate.

3 MR. GILL: Turning away from that. Thank you.

4 Q You mentioned that you got an inquiry from the
5 defendant about whether you had been contacted by Deep
6 Blue or any e-mails, and you had not been contacted by
7 them?

8 A That's correct. I had not.

9 Q At anytime have you been in contact with them?

10 A No.

11 Q Did you attend any shareholder meetings?

12 A I did. I attended one in 2010.

13 Q Take a look at Exhibit 40. Tell us what that is.

14 A This was, I believe, the notice to the shareholders
15 about the meeting.

16 Q Do you recall how you received that?

17 A You know, I believe I got this from Mr. LaDow
18 because, again, I was somehow not on the distribution of
19 e-mails for the company.

20 MR. GILL: Your Honor, we move for admission of 40.

21 THE COURT: Any objection, Mr. Wagner?

22 MR. WAGNER: No, Your Honor.

23 THE COURT: Received.

24 (Government's Exhibit 40 is received.)

25 Q And tell us what the date of the shareholder meeting

DIRECT EXAMINATION OF DAVID EVANS

150

1 was and where it was held.

2 A It was November 1, 2010 at the Ritz Carlton in
3 McLean, Virginia.

4 Q Actually, I'll refer you to the middle of that. Was
5 it on November 1st, or is there a different date as far as
6 when it's going to be held?

7 A Oh, I see the notice was the 1st. Yes, it was
8 Saturday, November 20th, at the Ritz Carlton.

9 Q Who did you go up there with?

10 A I went up there with Mr. LaDow.

11 Q Tell us, how many people were there at the meeting,
12 as you recall?

13 A I guess 15 to 20. Maybe 25 at the very most.

14 Q Tell the jury what you recall with respect to that
15 meeting.

16 A Well it was just, you know, kind of an update of
17 where the company was supposed to be at, so we wanted to
18 go up there and see what was going on. You know, I hadn't
19 really heard anything about how the company was
20 proceeding.

21 As the meeting proceeded, there were a lot of people
22 I think that were kind of under the same impression that
23 we were. It seemed like the company was kind of
24 stagnated. It wasn't really moving forward. Anytime
25 Mr. Harris would talk to you even during the meeting, he

DIRECT EXAMINATION OF DAVID EVANS

151

1 seemed to be much more concerned about Deep Blue trying to
2 steal the idea than moving the company forward.

3 He was asked during that meeting, and I believe I'm
4 the one that asked, you know, is there a financial
5 statement for the company because, again, you know, nobody
6 seemed to have ever seen anything about where the money
7 was being spent.

8 Q How did the defendant respond to that, if you recall?

9 A I believe he said that he was going to put something
10 together. There was a lawyer there that --

11 MR. WAGNER: Objection to what he believes he said,
12 Judge.

13 THE COURT: Objection sustained as to any
14 speculation.

15 You can't speculate if you don't have firsthand
16 knowledge. Just answer you don't, all right?

17 MR. EVANS: Okay.

18 THE COURT: Go right ahead. Next question.

19 Q Tell the jury what you recall the defendant saying,
20 if anything, about whether financials would be prepared.

21 A Yes. He said that they would be prepared and he
22 would send them out.

23 Q Has that ever happened, to your knowledge?

24 A No.

25 Q What do you recall, if anything, about the discussion

CROSS-EXAMINATION OF DAVID EVANS

152

1 about patent expenses?

2 A There was a discussion about patent expenses, about
3 the fees that had to be paid. Specifically, I think it
4 was the ones over in Europe that there was a continuous
5 amount of money they had to pay for those just to keep
6 that going. That it had not been approved yet. And then
7 that the United States one had been submitted, and we
8 still had not gotten approval for that yet either.

9 MR. GILL: May I have one moment, Your Honor?

10 THE COURT: Yes, sir.

11 MR. GILL: We pass the witness, Your Honor.

12 THE COURT: All right.

13 Mr. Wagner, cross-examination of Mr. Evans.

14 MR. WAGNER: Let me get some papers together here,
15 Judge. If I could have just a moment, please.

16 THE COURT: Yes, sir.

CROSS-EXAMINATION

17
18 BY MR. WAGNER:

19 Q Good afternoon, Mr. Evans.

20 A Hi.

21 Q How are you today?

22 A I'm all right.

23 Q I just want to be clear on this. You attended the
24 2010 shareholders' meeting, correct?

25 A That's right.

CROSS-EXAMINATION OF DAVID EVANS

153

1 Q And your recollection is from that meeting you heard
2 Mr. Harris say that the U.S. patent had not been approved?

3 A You know, I might have been mistaken about that.
4 There was a lady there from Canada. I believe he was
5 pursuing something to start clinical trials in Canada. I
6 can't say for sure, you know, but I believe at that point
7 that the patent in the United States may have been
8 approved.

9 Q And that was in 2010 that you're not recalling this
10 correctly?

11 A That's correct.

12 Q And the interview that you had with Mr. Harris was in
13 2008, right?

14 A The interview?

15 Q Well, the presentation.

16 A Yes, that's correct.

17 Q That he gave you was in 2008?

18 A Correct.

19 Q Is there anything that you testified about from that
20 2008 presentation that you had that you didn't remember
21 correctly either?

22 A No.

23 Q Are you sure about that?

24 A I'm positive.

25 Q Okay. Let's go over some of those things that were

CROSS-EXAMINATION OF DAVID EVANS

154

1 said. And let's be clear. You invested \$5,000 of your
2 money with Mr. Harris, isn't that right?

3 A That's correct.

4 Q And Mr. Harris was the company, right?

5 A That's correct.

6 Q He didn't have anybody else who was on the payroll
7 for him or who he was employing, correct?

8 A Well, there was a lawyer, and I thought there was a
9 secretary or someone that was helping him file some of the
10 paperwork.

11 Q But you didn't see any records of anybody on his
12 payroll?

13 A No.

14 Q And you did not get any return on your investment,
15 isn't that right?

16 A That's correct.

17 Q So you're not happy with Mr. Harris, would that be
18 accurate?

19 A Yeah.

20 Q Now, it's fair to say that when Mr. Harris first
21 talked to you about this company that he was very
22 passionate about this science that he was promoting, is
23 that correct?

24 A That's correct.

25 Q He really believed in it, didn't he?

1 A He did.

2 Q And he caused you to believe in it, didn't he?

3 A Yes.

4 Q And is there anything about the science that you
5 don't believe, or you don't believe that Mr. Harris
6 presented to you that was accurate?

7 A No.

8 Q Thank you. Now, Bill LaDow is a good friend of
9 yours, right?

10 A That's correct.

11 Q And you and he and Mr. Harris would go diving, is
12 that correct?

13 A That's correct.

14 Q And did Bill LaDow tell you anything about Michael
15 Harris' company?

16 A Yeah, he's the one that first told me that the
17 company was in existence and it was a treatment for AIDS.

18 Q And did he tell you that he had invested in it?

19 A Yes.

20 Q All right. So some of the information that you
21 received from Mr. LaDow about the company, is it possible
22 you could have confused that with what Mr. Harris told
23 you?

24 A No, I don't believe so.

25 Q But that was back before 2008 when you made this

1 investment, correct?

2 A I'm not sure if that was before I went to Guantanamo
3 Bay or right after I got back.

4 Q Okay. Well, let me ask you this. What exactly did
5 Mr. Harris say to you at the presentation as to what he
6 would do with the money? Exactly. If you don't remember
7 exactly, please say so.

8 A What he did not say exactly, I can tell that you. He
9 did not say I'm going to use \$50 for this or \$100 for
10 that.

11 Q Now, you have testified that he said -- the first
12 time Mr. Gill asked you, you said that he was using the
13 money to apply for patents, is that correct?

14 A Yes.

15 Q And using the money for clinical trials, correct?

16 A Yes.

17 Q And he was using the money to complete the research,
18 correct?

19 A Yes.

20 Q Now, you were asked a second time, and then is it
21 true that you added this, you said, "*Eventually get to a*
22 *marketable product,*" is that correct?

23 A I don't know that he said those specific words.

24 Q All right. But that was your testimony in response
25 to Mr. Gill's question?

1 A Right.

2 Q And so it was your understanding that part of what
3 your money was going to was to eventually get a marketable
4 product, is that fair to say?

5 A That's correct. Yes.

6 Q Now, you were interviewed by a Bill Ward back in July
7 of 2012, is that right?

8 A I don't recall the date but, yeah, I spoke to Bill
9 Ward several times.

10 Q How many times have you talked to Bill Ward?

11 A Probably three.

12 Q And the first time you talked to him though was July
13 of 2012, correct?

14 A What is it you're showing me there?

15 Q I'm not showing you anything yet. This is just a
16 report of your conversation.

17 A I don't know that it was July the 12th. I know I
18 spoke to Mr. Ward. I can't remember the exact date.

19 Q Let me show you a copy of this memorandum and see if
20 this refreshes your recollection of when you spoke to
21 Mr. Ward.

22 A Okay.

23 Q And in the middle of that page it's in bold. Is it
24 true that Mr. Ward asked you the question, *"What did*
25 *Mr. Harris say your money would go to?*

CROSS-EXAMINATION OF DAVID EVANS

158

1 A Well, I mean it says here "*clinical trials*." Just
2 like I said earlier.

3 Q Well, that's the only thing you told Mr. Ward that he
4 said to you back then, isn't that correct?

5 A I guess if this is a word for word verbatim
6 conversation, yes.

7 MR. GILL: Your Honor, with that I am going to
8 object. It is not proper impeachment. And this is not
9 this witness's statement.

10 THE COURT: As you well know, I believe you can show
11 it to him, refresh his recollection, and ask him what --

12 MR. WAGNER: I have no problem with that, Judge.

13 THE COURT: All right. Please do.

14 Q So are you saying then to the ladies and gentlemen of
15 this jury that you said anything additional to "*clinical*
16 *trials*" in response to Mr. Ward's question?

17 A You know, I can't recall the word for word
18 conversation that I had with him. But again, it was my
19 understanding right from the get-go that the items left to
20 do to complete the company's quest for having a product
21 that could be marketed was to finish getting the patents
22 approved and get the clinical trials done.

23 MR. WAGNER: I'll take that document back, please.

24 Q So is it fair to say that when you had this
25 conversation with Mr. Harris about your investment, you

1 didn't write anything down?

2 A No, I didn't write anything down.

3 Q Didn't write down what he told you he would do with
4 the money, is that correct?

5 A No.

6 Q And is it fair to say you didn't ask him any
7 follow-up questions as to what he would do with the money?

8 A No, I did not.

9 Q All right. Didn't follow-up with any e-mails to him
10 after the presentation to ask him what he's doing with the
11 money, is that fair to say?

12 A No, I didn't.

13 Q Isn't it true that Mr. Harris also talked at great
14 length about pursuing funding for the research and funding
15 for the company?

16 A Yes. I knew that there was still funding that had to
17 be acquired to complete the research for the clinical
18 trials.

19 Q And didn't you understand then that some of the money
20 that came into the company was going to be used to pursue
21 the big investor for the company?

22 A Yeah, I don't know that I understood that completely,
23 but it makes sense that he would have to do some of that.

24 Q And isn't it fair then that the CEO or president of
25 the company who does that would get paid for that?

CROSS-EXAMINATION OF DAVID EVANS

160

1 A Well, that wasn't really made clear, I mean, that he
2 was drawing a salary off the company. We never had that
3 conversation.

4 Q Is it fair to say that the thrust of Mr. Harris'
5 presentation to you, that he intended to move the company
6 forward?

7 A Absolutely. Yes.

8 Q Okay. And following that conversation, when was the
9 next time that you tried to recall what Michael Harris
10 said during that conversation?

11 A I mean, as far as specifics go, the next time I
12 probably tried to recall all that was said was when I
13 spoke with Mr. Ward.

14 Q So that would have been four years after the fact?

15 A That's correct.

16 Q Are you an experienced investor?

17 A No, I am not.

18 Q Now, you knew that this was essentially sort of a
19 start-up company that you were investing in, correct?

20 A I did.

21 Q You knew it was sort of a one-man show, right?

22 A Yes.

23 Q Let me back up a second. Let's talk about the e-mail
24 that you received from Mr. Harris on, I believe it was,
25 August the 4th of 2008. That was two days before he came

CROSS-EXAMINATION OF DAVID EVANS

161

1 to your house to talk about the investment, is that
2 correct?

3 A I thought it was after. I don't really recall.

4 Q So you thought you received the e-mail after you
5 spoke to him at your house?

6 A Yes.

7 Q Okay. Then in response to Mr. Gill's questions, you
8 said that you discussed the things that accompanied the
9 e-mail when you met with Mr. Harris?

10 A He had some of those documents in his presentation.
11 But the way I recall it, he did not have copies of all
12 those to give to us so he e-mailed them to us.

13 Q Does this look familiar to you?

14 A It does.

15 MR. WAGNER: I'm holding up a white folder.

16 Q And does this look like the white folder he brought
17 with him?

18 A It's a white binder. I don't know.

19 Q Let me hand it to you and see if you can identify
20 this as the folder that he brought with him and made his
21 presentation to you.

22 THE COURT: Do you want that marked as an exhibit?

23 MR. WAGNER: Sure. Sure.

24 THE COURT: Going to have to, otherwise we won't know
25 what you're referring to.

CROSS-EXAMINATION OF DAVID EVANS

162

1 MR. WAGNER: It's 53, Judge. I'm sorry.

2 THE COURT: All right.

3 I'm sure you've seen this, have you not, Mr. Gill?

4 MR. GILL: I'm sorry?

5 THE COURT: You've seen this white binder?

6 MR. GILL: I have.

7 A Yeah, I would have to say that some of this looks
8 familiar to me. I certainly don't recall page-for-page
9 this entire binder.

10 Q And just to be clear, do you recall saying to
11 Investigator Ward that he came to your house on August the
12 6th of 2008, Mr. Harris?

13 A I don't recall giving him a date. No. I think
14 August the 6th was the date that we signed some of the
15 papers. So obviously that was the date he was there.

16 Q So that kind of refreshes your recollection?

17 A Yes.

18 Q So that date would have come after when you received
19 the e-mail, correct?

20 A What was the e-mail date?

21 Q August 4th.

22 A Yeah, you're right. August the 4th is when we got
23 the e-mail. August the 6th is when he came to the house.

24 Q Very good. And do you recall seeing the newsletters
25 that were referred to, the newsletters from August of 2007

1 and September of 2007?

2 A Yeah. Yes, I do.

3 Q And these newsletters needed to be prepared by
4 someone, correct?

5 A Sure.

6 Q Isn't it fair to say that whoever prepared these
7 should be paid for their time?

8 A I suppose.

9 Q And the 2006 documents that you referred to -- and I
10 think I have it tabbed in that folder there. There's a
11 yellow marker. Now, that's a proposal for congressional
12 funding for Michael Harris' research, is that right?

13 A It's some kind of proposal. I don't see where it
14 says it's for Michael Harris.

15 Q So you don't know that that's from Michael Harris'
16 company?

17 A You know, I recall seeing the document. I don't know
18 that we discussed where it came from.

19 Q Well, didn't he tell you that he prepared that for
20 funding for his company?

21 A You know, I don't recall him specifically stating
22 that. But looking at the document, I would say that I
23 would assume that, yes, he had done it.

24 Q Okay. And in that document, it clearly refers to a
25 salary for the CEO and president of that company, isn't

1 that right?

2 A It does. Yes.

3 Q And it refers to a salary of \$100,000 a year, right?

4 THE COURT: What document are you referring to,
5 Mr. Wagner?

6 MR. WAGNER: It's the document that the government
7 referred to in asking Mr. Evans about funding for the
8 company for the Phase II trials.

9 THE COURT: Does it contain a number?

10 MR. GILL: For the record, it's contained in
11 Government's Exhibit 35 beginning at Page 9 through, I
12 believe, 13.

13 THE COURT: Okay. Very good. I want to establish
14 what exhibit he's reading from.

15 MR. WAGNER: I'm sorry.

16 THE COURT: All right. Go ahead. Next question.

17 Q So is it fair to say that you were presented with a
18 document that reflected that Mr. Harris would receive a
19 salary?

20 A Yes. I have seen this document.

21 Q All right. And did you ask Mr. Harris any questions
22 when you saw that document about him receiving a salary?

23 A I did not.

24 Q And that has in it references to office expenses, is
25 that right? We're talking about Exhibit 39, and I think

1 Page 11 is the correct page.

2 A Yes.

3 Q Did you ask him any questions about office expenses?

4 A I did not.

5 Q Now, you went to his house, didn't you?

6 A Yes.

7 Q And his house was in Luray, Virginia, right?

8 A That's correct.

9 Q And the house was in pretty poor shape, at least at
10 that time in 2008 when you went, is that right?

11 A It was having some renovations done.

12 Q Kind of falling apart, right?

13 A It was an older home. Yes.

14 Q And this was his base of operations, that home in
15 Luray, Virginia, right?

16 A At that point I wasn't really involved in the company
17 so, I mean, I don't know if it was or not.

18 Q Did he tell you whether or not the home was his
19 office?

20 A No, because at that point I had not had a discussion
21 with him even about investing in the company.

22 Q Did you go into the house?

23 A I did.

24 Q Do you remember going through the kitchen?

25 A I don't recall going through the kitchen. I mean, I

1 went into the house. Had cooked some meat or something
2 out on the grill, and we sat down at a large table in the
3 dining room and had dinner.

4 Q Okay. And do you remember a living room adjoining
5 the kitchen?

6 A I don't remember the specific layout of the house.

7 Q So you didn't remember an office being in the house?

8 A No.

9 Q And in that document, that Exhibit 39 on Page 11 that
10 you're looking at, that 2006 congressional budget
11 proposal, it also references travel expenses, correct?

12 A I don't see a specific line item for travel.

13 Q Now, you said in response to Mr. Gill's question that
14 you wouldn't have given him money if you knew it had gone
15 to salary, is that correct?

16 A That's correct.

17 Q Yet you didn't ask him any questions about salary?

18 A That's correct.

19 Q Now, would you consider Bill LaDow to be a close
20 friend of yours?

21 A Yes, I would.

22 Q And isn't it true that Mr. Harris was involved in a
23 personal relationship with Mr. LaDow's daughter?

24 A Yes.

25 Q And that relationship did not end well, is that fair

1 to say?

2 A That's correct.

3 Q All right. And are you close to Bill LaDow's
4 daughter?

5 A No. I've know her for a long time, but I'm not close
6 to her.

7 Q But she was hurt by that relationship, right?

8 A I'm assuming that she was. Yes.

9 Q And his father was a little upset about that as well?

10 A Yes.

11 Q Now, did you ever ask for any financial statements or
12 documents from Mr. Harris before you invested?

13 A No, I did not.

14 Q Didn't ask for any balance sheets from the company?

15 A No, I did not.

16 Q But you felt it was a sound investment, right?

17 A Yes. If I didn't, I wouldn't have done it.

18 Q Now, you've indicated that at the 2010 shareholders'
19 meeting that the patent had not yet been approved, is that
20 correct?

21 A You know, I stated that but honestly I do not recall
22 every word that was spoken in that meeting. Sometime in
23 that -- sometime in that time frame, the U.S. patent did
24 get approved. I don't recall if it was prior to the
25 meeting or not.

1 Q And you were never shown a transcript of that
2 meeting?

3 A No.

4 Q Never shown any kind of recording from that meeting?

5 A I was -- I listened to some pieces of the recording
6 from Mr. Gill.

7 Q And when was that?

8 A A week or two ago.

9 Q How many times have you met with Mr. Gill prior to
10 your testimony?

11 A I've never met with him. Just spoke on the phone.

12 Q How many times did you speak on the phone?

13 A I think twice.

14 Q Is it fair to say that at that shareholders' meeting
15 that Mr. Harris was being attacked by the shareholders?

16 A I don't know that I'd use the word "*attacked*." He
17 was certainly being questioned because I think other
18 people felt the same way that I did. No financial
19 documents had been produced or provided to anyone, so
20 nobody knew what was being done with their investment --
21 with their invested money.

22 Q Now, did you receive an anonymous letter before
23 attending that shareholders' meeting?

24 A An anonymous letter?

25 Q Near that time relating to Mr. Harris' company, did

1 you receive an anonymous letter before attending that
2 meeting?

3 A I did not.

4 Q Did Mr. LaDow talk to you about a letter that he
5 received prior to that meeting?

6 A I don't remember if there was any letter. I know
7 that he had been contacted a couple of times I think by
8 this Deep Blue company.

9 Q But I'm asking about this letter specifically.

10 A I don't recall anything about a letter. No.

11 Q And do you recall that there were shareholders at the
12 meeting that were questioning Mr. Harris about this
13 letter?

14 A Again, I don't --

15 Q And I --

16 THE COURT: One person speaking at a time. You may
17 complete your answer.

18 MR. WAGNER: I'm sorry.

19 A I don't recall anything specific about a letter.

20 THE COURT: Next question.

21 MR. WAGNER: Yes, sir.

22 Q Is it true that Mr. Harris said at the meeting that
23 the company's money was gone because it was spent on the
24 acquisition of patents?

25 A I do recall him saying that the money was gone. I

CROSS-EXAMINATION OF DAVID EVANS

170

1 don't remember it specifically being for acquisition of
2 patents alone.

3 Q And when he said the money was gone, did that in any
4 way lull you into a sense of security?

5 A Absolutely not.

6 Q Did that in any way cause you, if you had concerns
7 about fraud of Mr. Harris, to not go to the authorities
8 about that fraud?

9 A No.

10 Q Now, Mr. Harris said he owns -- is it true that
11 Mr. Harris said at that meeting that he owns over 50% of
12 the stock, so there is little that anyone can do to force
13 him to comply with their requests?

14 A I don't -- I know it was made clear that he owned 51%
15 of the stock. So I don't know that he stated that, you
16 know, there was nothing anybody could do to make him do
17 anything.

18 Q Do you recall the interview that you had with
19 Mr. Ward in July?

20 A I do.

21 Q And do you remember saying exactly that to Mr. Ward
22 during that interview?

23 A I do not.

24 Q Do you want to look at this to refresh your
25 recollection?

REDIRECT EXAMINATION OF DAVID EVANS

171

1 A Sure.

2 Q And I'll refer you to the second page of this, and
3 it's the sixth paragraph from the bottom.

4 A Yeah, I still don't recall saying that.

5 Q But you told that to Mr. Ward, to Investigator Ward,
6 in July?

7 A I just said I don't recall saying that.

8 Q Okay. Very well. And based on that statement, if
9 you had heard that statement, would that have caused you
10 to be lulled into a feeling of security about your
11 investment?

12 A No.

13 Q And did Mr. Harris express that he was unwilling to
14 take steps to move the company forward?

15 A He did not.

16 Q Do you remember Mr. Harris saying that the company
17 was broke at the shareholders' meeting?

18 A I don't think he used the word "*broke*." But when we
19 questioned him about the money, I do remember him saying
20 that the money was gone.

21 Q Do you remember him saying that he is not the right
22 person to run the company?

23 A I do recall him saying that. Yes.

24 MR. WAGNER: One moment, Your Honor. That's all I
25 have, Judge.

REDIRECT EXAMINATION OF DAVID EVANS

172

1 THE COURT: Any redirect, Mr. Gill?

2 MR. GILL: Very briefly.

3 THE COURT: All right, sir.

4 **REDIRECT EXAMINATION**

5 BY MR. GILL:

6 Q Now, Mr. Evans, I believe I asked you about Deep Blue
7 and Jeff Seto. You have never been contacted by them or
8 been in contact with them?

9 A No. That's correct.

10 Q Same deal for an individual named Matt Johnson?

11 A Never been contacted by him either.

12 Q Now, Mr. Wagner was asking you if you wrote anything
13 down in connection with this investment when the defendant
14 was doing his presentation. Do you remember that?

15 A Yes, I do.

16 Q Even though you didn't write anything down, how
17 certain are you about what you testified to before the
18 jury?

19 MR. WAGNER: Objection to leading the witness, Your
20 Honor.

21 THE COURT: No, it doesn't suggest the answer. "*How*
22 *certain*" doesn't suggest the answer. Objection overruled.

23 You may respond.

24 Q Tell the jury how certain you are about your
25 testimony about what was going to be done with your

1 investment dollars.

2 A I'm completely certain that it was going to be used
3 to complete the research and to move forward with the
4 company.

5 Q Now, with respect to the shareholders' meeting, how
6 hot of an issue were the past financial records that the
7 shareholders wanted?

8 A It was a very hot topic. Yes. I mean, several of
9 the people there -- I'm assuming he had had previous --

10 MR. WAGNER: Objection to him assuming, Your Honor.

11 A Based on the conversations --

12 MR. WAGNER: Objection.

13 THE COURT: Hold on.

14 Why don't you rephrase your question to clarify it.

15 MR. GILL: I apologize, Your Honor.

16 THE COURT: Okay.

17 Q Mr. Evans, with respect to the financials, tell the
18 jury based on what you heard at that shareholder meeting
19 if that was a big issue.

20 A It was a big issue.

21 Q What was it you --

22 A These documents had been asked for previously, and
23 they still had not been received by anyone. This was the
24 first shareholders' meeting that I had been at, and again
25 it was asked at that meeting is there any financial

REDIRECT EXAMINATION OF DAVID EVANS

174

1 records for the company. There was a lawyer there. We
2 even asked the lawyer is that not required that he has --
3 that you have to provide this at least annually to the
4 shareholders of the company, and nothing had been received
5 by anyone.

6 THE COURT: Next question.

7 Q Sir, if financials had been provided to show that
8 your investment had been used on farm expenses, auto
9 expenses, and house expenses for the defendant's personal
10 residence, would you have taken action on that
11 information?

12 A I certainly would have had a conversation with
13 Mr. Harris about it. I don't know that I would have gone
14 to do anything legally about it.

15 Q If you had seen that information, would that have
16 been in line with what you had been led to believe by the
17 defendant when he first took your money?

18 A Absolutely not.

19 MR. GILL: No further questions, Your Honor.

20 THE COURT: May Mr. Evans be excused at this point,
21 Mr. Gill?

22 MR. GILL: Yes, Your Honor.

23 THE COURT: Mr. Wagner, may Mr. Evans be excused?

24 MR. WAGNER: Yes, Your Honor.

25 THE COURT: Mr. Evans, you're excused and free to go.

DIRECT EXAMINATION OF DIANE DESCH

175

1 Thank you for coming in. We appreciate your testimony.

2 MR. EVANS: Yes, sir.

3 **WITNESS STOOD ASIDE**

4 THE COURT: Who'll be the government's next witness?

5 MR. GILL: Diane Desch, Your Honor.

6 THE COURT: Diane Desch.

7 MR. GILL: Yes, Your Honor.

8 THE COURT: Ms. Desch, if you would raise your right
9 hand, place your left hand on the Bible, and face the
10 Clerk of the Court.

11 THE CLERK: You do solemnly swear that the testimony
12 which you are about to give, in this case, before this
13 Court, shall be the truth, the whole truth, and nothing
14 but the truth, so help you God?

15 MS. DESCH: I do.

16 THE COURT: Ms. Desch, have a seat on the witness
17 stand, please.

18 Mr. Gill, go right ahead.

19 MR. GILL: Thank you, Your Honor.

20 Whereupon, **Diane Desch**, having been
21 duly sworn in, testifies as follows:

22 **DIRECT EXAMINATION**

23 BY MR. GILL:

24 Q Good afternoon. Would you please introduce yourself
25 to the jury.

DIRECT EXAMINATION OF DIANE DESCH

176

1 A My name is Diane Desch. I'm from the west end of
2 Richmond, Virginia in Henrico County.

3 Q And how long have you lived in the Richmond, Virginia
4 area?

5 A Since '86. My family moved away in 1990, and we
6 moved back in 1991.

7 Q Tell us what you do for a living, ma'am.

8 A I work part-time with Door To Door Solutions helping
9 people downsize or move into assisted living or
10 independent living depending on their needs.

11 Q How long have you been doing that?

12 A Six or seven months now.

13 Q Earlier did you work in the home raising children?

14 A Yes, I did.

15 Q How many children do you have?

16 A I have two boys. One is 25 and one is 21, going to
17 be 22.

18 Q Ma'am, are you currently married?

19 A No, I'm not.

20 Q And how long have you been divorced?

21 A Six years.

22 Q Who do you currently live with?

23 A Right now I live with my ex-husband in the west end.

24 Q Now, ma'am, we'll be talking today about events that
25 occurred in 2010 through 2011. And starting off, would

DIRECT EXAMINATION OF DIANE DESCH

177

1 you tell the jury whether you had a medical issue that
2 occurred during that time?

3 A I did. I had terrible headaches, and so I went to
4 several doctors here. I ended up at John Hopkins. And
5 the top neurovascular surgeon at John Hopkins diagnosed me
6 with an aneurysm inside a blood clot that had trickled
7 behind my right eye, and so they did a procedure called
8 the pipeline embolization. I had two stints put in my
9 brain behind my right eye.

10 Q When was the surgery for that?

11 A That was November 8, 2011.

12 Q And leading up to that time you said you were having
13 headaches?

14 A I was.

15 Q Tell the jury with what was occurring with you then
16 have any effect on your ability to recall what happened
17 back in 2010 to 2011?

18 A No, it does not.

19 Q Now one other thing, Ms. Desch, before we talk about
20 the defendant in this case. Tell the jury around the same
21 time that the events occurred in relation to this, were
22 you also the victim of what is known as a Nigerian fraud
23 scam?

24 A I was.

25 Q Just briefly tell the jury what happened in that.

DIRECT EXAMINATION OF DIANE DESCH

178

1 A I received a phone call or two, and they said that I
2 had won some money. I followed up. I got mailings
3 through the mail, and I responded to those mailings and I
4 thought I had won some money.

5 Q Did you have to provide your own money to get the
6 money?

7 A I did.

8 Q Tell the jury how much money you lost.

9 A I lost a little over \$600,000.

10 Q And is the FBI investigating that?

11 A They are.

12 Q And before we leave it, ma'am, tell the jury if you
13 actually got that money, what, in part, were you planning
14 on doing with that money if you had received it?

15 A I was going to help -- that was going to help with
16 Michael Harris' research.

17 Q You mention Michael Harris. Do you see him here
18 today?

19 A Yes, I do.

20 MR. GILL: Your Honor, may the record reflect the
21 witness identified the defendant?

22 THE COURT: It will so reflect.

23 Q Tell the jury when it is that you first met Michael
24 Harris.

25 A 2009 at the horse show. The Warrenton horse show.

DIRECT EXAMINATION OF DIANE DESCH

179

1 Q What part of 2009 is the Warrenton horse show?

2 A It's over the Labor Day weekend. It starts on a
3 Wednesday before Labor Day, and goes through Labor Day or
4 usually Monday.

5 Q Does your family have a special connection to that
6 particular show?

7 A Yes, we do. My great grandfather owned most of the
8 land in Warrenton that they built the horse show around,
9 and my grandmother and my aunt both rode in that horse
10 show. That's why I would always go during Labor Day
11 weekend to see them, and to honor them by giving the
12 trophies to the riders.

13 Q Now in 2009, did your family have a -- set up a
14 tailgate?

15 A We did. We always set up a tailgate, as a lot of
16 families do. You give money to the -- to help with the
17 funds around the horse show and keeping the grounds safe,
18 as well as the shows themselves. It helps provide for the
19 trophies and to pay for the horse show itself.

20 Q And describe for the jury where it was at that event
21 in 2009 that you actually met the defendant.

22 A It was 2009 at the horse show in the evening. And he
23 arrived on the Saturday evening for the horse show. He
24 walked up with several people and sat down next to me.

25 Q Describe for us who do you recall being with the

1 defendant.

2 A He had several men -- a couple men and several women
3 that were with him. Some sat behind him and others were
4 standing.

5 Q Did you -- could you tell what was going on, what you
6 observed, who was kind of the leader of the pack, if
7 anyone?

8 A Michael Harris was the leader of the pack. And he
9 was very outgoing, and he introduced himself to me as he
10 sat down. And he sat and talked to me for two hours. We
11 talked about the riders in the ring, we talked about what
12 they were wearing, and what I liked. And he also told me
13 that he didn't ride for the workhorse show. That he was a
14 steeplechase rider.

15 Q Describe for the jury how he was dressed.

16 A Very impeccably. He knows how to dress. He had a
17 nice blazer that had a leather collar. A dark blazer. He
18 had corduroy pinstripe pants, and nice leather shoes.

19 Q Now, aside from him discussing the steeplechase, do
20 you remember anything else he talked to you about at that
21 time?

22 A He handed me his card, and he said he was a
23 scientist.

24 Q What kind of scientist?

25 A He didn't really tell me what type of scientist he

DIRECT EXAMINATION OF DIANE DESCH

181

1 was at that time. I didn't really know. Mostly we talked
2 about the horse show.

3 Q Now after that evening when you met the defendant,
4 did you get in contact with him after?

5 A Not that day. Not during that -- right after the
6 horse show, but I would go up and visit my mom and one day
7 I found the card in the car and then I called him.

8 Q Do you recall generally, you know, what you talked
9 about with the defendant when you called him?

10 A When I called I said, *"I notice that you have*
11 *European phone numbers on your card."*

12 And he said, *"Well, I'm really a scientist. I'm in*
13 *the process of inventing the cure for AIDS."* And I
14 noticed that it was -- he had M.F. Harris Research, Inc.,
15 and so, you know, that looked very authentic.

16 Q When he mentioned AIDS, describe for us, did that
17 have a special impact on you or affect?

18 A Yes, it did.

19 Q Why?

20 A I lost my real father to AIDS in New York. I didn't
21 know him. I found him when I went up to New York when I
22 was 23, and he died two weeks later. So I had no idea who
23 he was, but it does have an impact on my life. I didn't
24 grow up with him.

25 Q Did you discuss your prior experience with the

1 defendant?

2 A Yes, I did.

3 Q Now, when he talked about that he was a scientist and
4 he traveled, did he give you any other details about where
5 he would travel to?

6 A He said he went to Europe. I thought he said
7 Romania. He said he had a daughter there, and he has a
8 son that's here.

9 Q How did your relationship develop from there with
10 Michael Harris? How would you keep in contact?

11 A I called. It wasn't until, you know, in 2011, it was
12 in the spring of 2011 that he called me.

13 Q Okay. And around that time, ma'am, did you ever get
14 a chance to go to Luray, Virginia?

15 A Yes, I did. He invited me to come. The first time
16 he invited me he said it was a party. It was in the
17 evening. And I -- you know, he called me in the
18 afternoon, but it was getting dark and I didn't know --
19 I've never driven up in the mountains at night and I'm not
20 very good with directions, so I went up to the -- I was
21 going to go up to his home. I left Richmond, and I turned
22 around. I don't know what possessed me, but I turned
23 around and came home and thought, you know, I can't drive
24 at night. So I called and said, *"I'm sorry. I was going
25 to come, but I'm not going to. Maybe some other time."*

DIRECT EXAMINATION OF DIANE DESCH

183

1 Q Eventually did you go out to Luray, Virginia?

2 A Yes.

3 Q Tell us roughly when that was.

4 A Not long after. It was in the daytime. It was on a
5 weekend. And I went up during the day, and I actually
6 spent the night but I wasn't planning to. Well, I guess I
7 was planning to spend the night. So I went up to his
8 place. Yeah.

9 Q Now, tell us about your impression of the defendant's
10 house when you were driving to Luray to find it.

11 A He said look for a colonial style home with five
12 pillars. And as you're driving up to the home, there's a
13 big, you know, trailer to hold four horses, a white
14 trailer. You will see that before you get to the house.
15 I didn't see it. I was on a country road when I got up to
16 his house. You wind around. And I almost passed the
17 house. And I looked up and I found the flags and I had to
18 double back, and I eventually found his house but it was
19 not what I thought it was.

20 Q How did it compare to what you thought it was?

21 A What I thought was it was an old colonial home, you
22 know. That you had several horses and so you have money
23 and so therefore the, you know, the trailer was -- I was
24 looking for the trailer and I couldn't find the trailer.
25 And the trailer ended up being on the property, but it was

1 hidden. No, it wasn't anything like I thought it would
2 be.

3 Q What about the inside of the house?

4 A That was different.

5 Q Okay. Describe to the jury how the inside of the
6 house is different.

7 A When I walked inside the home, it was displayed with
8 -- there's a wardrobe that's displayed with the habits
9 that riders wear with the boots all in a row and then the
10 wardrobe is open. And he had a closet to the left. It
11 was like a room and it has a desk, and then to the left it
12 had a closet that was open and had all these guns from the
13 top all the way down and on the door. That surprised me.
14 And it looked more like a hunter because he had, you know,
15 he had deer and elk all around it that were stuffed and
16 mounted on the walls.

17 Q Do you remember if he was working on any of the rooms
18 in the house at the time?

19 A He was working on the whole house. But he -- he
20 moved in, and he was living toward the back of the room.
21 It just -- it looked really nice. In the back of the room
22 was a little office. As you go up the stairs -- I mean,
23 the house is bigger than it really looked on the outside.
24 And when you went up the stairs, he had a boar's hide over
25 the mantle. Outside the house he had -- he had an

DIRECT EXAMINATION OF DIANE DESCH

185

1 American flag and then he had the Olympic flag with the
2 rings on the outside which was -- I didn't know. I mean,
3 I inquired eventually about the Olympic flag.

4 Q Now, eventually did he do a presentation for you?

5 A Right away.

6 Q Tell us about that and what you recall.

7 A He took me back to his office and opened up his
8 laptop and he started right away about Michael F. Harris
9 Research. And it was all about the AIDS research. I was
10 -- I was impressed. It took two and a half hours, and he
11 wouldn't let me ask a question. That was the only thing
12 that bothered me because I wanted to ask questions.

13 And I said, *"When you're explaining it to me and I*
14 *don't know everything, please let me talk."*

15 And he said, *"I'm talking."* And then so I just got
16 very quiet, and he ended up talking about his research.

17 Q What did you understand the company was working on
18 based on that?

19 A On the cure for AIDS.

20 Q Did he give you any idea during that presentation or
21 after how close he was to making progress with his
22 company?

23 A He said he was very close. He finished Stage I. He
24 was in Stage II, and all he had to do was go to Stage III.

25 What I saw on his computer made me -- I was excited

DIRECT EXAMINATION OF DIANE DESCH

186

1 because, you know, I lost a father to AIDS. I had -- I
2 lost a large part of my life because of that.

3 Q Ma'am, if you could, take a look at Exhibit 161.
4 It's at the bottom of that stack you have there.

5 THE COURT: One hundred sixty-one?

6 MR. GILL: Yes, Your Honor.

7 Q If you would, just thumb through the pages.

8 A Do you mind if I get my glasses?

9 Q Absolutely. Go ahead.

10 A Okay.

11 Q And thumbing through the pages with the pictures,
12 does this at all look familiar with what he presented?

13 A This is what he had on his computer. Yeah. These
14 are all the -- he wanted to show me the pictures first,
15 and that's what he was showing me was how a virus would
16 look and then what it would look like after.

17 THE COURT: Mr. Wagner, any objection to 161, sir?

18 MR. WAGNER: There is not, Judge.

19 THE COURT: It will be received. You may publish it
20 if you wish.

21 MR. GILL: Thank you, Your Honor.

22 (Government's Exhibit 161 is received.)

23 MR. GILL: And if we could see Page 4 of Exhibit 161.

24 Q We don't need to get technical, but does this -- in
25 fact, it's on the screen in front of you.

1 A Okay.

2 Q Does that appear to be a page that he showed you in
3 doing his presentation?

4 A Yes, he did.

5 Q And the next page, Page 5?

6 A Absolutely.

7 Q Page 6?

8 A He said that on the left was what happens with AIDS,
9 on and the right is after his research.

10 Q Page 7? So it's fair to say, I mean, he got very
11 technical during his presentation?

12 A Yes, he did. And he had a picture of a little boy
13 that he kept referring to. And he said, "*That's the*
14 *reason that this is so dear to my heart.*"

15 Q Tell the jury about what you recall about the little
16 boy.

17 A It was a picture of a little boy, and he said that
18 the boy had died of AIDS.

19 Q And let's look at Page 18.

20 A These are the containers he said that are his. He
21 has stored all of his research in these containers.

22 Q Did he mention anything to you during that
23 presentation that he had told shareholders several months
24 earlier that the company was bankrupt?

25 A No.

DIRECT EXAMINATION OF DIANE DESCH

188

1 Q According to, you know, this presentation that he's
2 showing you these pictures, what was he taking investment
3 money for? What was he pushing for?

4 A Well, the first time I gave him money was to -- for
5 his patent. His European patent. He said, *"If I don't
6 get the money for the European patent, then it's dead in
7 the water. I can't do anything more here in the United
8 States."*

9 And he gave me a phone call in the afternoon and I
10 said, *"Well, when do you need this money?"*

11 And he said, *"Well, it's 10:30 in the morning."* He
12 said, *"I need it by noon."*

13 And I said, *"That's not giving me much time."*

14 And he said, *"Just trust me. If you do this, you
15 will be the reason I can continue my research."*

16 Q And we'll get to that in just a moment. But
17 generally what did you understand he was using investment
18 money for based on his presentation and what he's telling
19 you?

20 A For the research for the cure of AIDS. That he was
21 so close to it.

22 Q At any time during this PowerPoint, or any time he's
23 talked to you about the company, did he talk to you about
24 using your money or other investor's money just for his
25 personal expenses?

DIRECT EXAMINATION OF DIANE DESCH

189

1 A No. Never. I would never have done it. You know,
2 the AIDS was my reason for it. I hope one day we do find
3 a cure for AIDS.

4 Q Now, ma'am, I believe you mentioned earlier, did you
5 stay at the defendant's home that night?

6 A I did.

7 Q Now tell the jury, were you romantically involved
8 with the defendant at that time?

9 A No, I was not.

10 Q Later on was there a time down the road?

11 A One time when he came to the house to give me a
12 certificate.

13 Q But here we are back in early 2011 when you first
14 went to Luray, Virginia.

15 A Yes.

16 Q You saw his presentation and you stayed the night,
17 correct?

18 A I did.

19 Q All right. Tell the jury what happened the next
20 morning. Did you go home?

21 A I thought I was going home. We went to the country
22 club there and had breakfast. And when we got there, you
23 know, he didn't have the money. The card didn't work.
24 His credit card didn't work and so I ended up paying for
25 breakfast.

DIRECT EXAMINATION OF DIANE DESCH

190

1 And while we were there, he saw a table next to ours
2 and there was a group of people there and he -- he didn't
3 say anything to me. He just walked over there and was
4 standing there for the longest time and he was talking to
5 them, and evidently knew them. So I got up and walked
6 over there to, you know, stand by them. And they had
7 brought our food. And we were there for about a half an
8 hour standing, and he was talking about his research for
9 the cure of AIDS. He invited them to come back to the
10 house. It turned out that they were his teachers from
11 school growing up, and he was surprised they were all
12 together. And so they agreed to come back to the house.

13 Q All right. And tell us -- take a look at Exhibit 88.
14 And it will be in that stack if you want to put that away.
15 It should be the top folder of that group. Do you
16 recognize that?

17 A I do. I took the picture. It was in his house that
18 day that they came over that he invited them.

19 MR. GILL: Your Honor, we move for admission of
20 Exhibit 88.

21 THE COURT: Any objection, Mr. Wagner?

22 MR. WAGNER: No, Your Honor.

23 THE COURT: Eighty-eight will be received. You may
24 publish it if you wish.

25 (Government's Exhibit 88 is received.)

DIRECT EXAMINATION OF DIANE DESCH

191

1 Q Tell us what we're looking at and where this is.

2 A This is inside his home. And the lady on the far

3 right he wanted to impress the most. I'm not sure if she

4 said she was his English teacher -- I mean on his left.

5 And the lady in the jacket with the color, she was another

6 teacher of his. They're all teachers from his school

7 growing up.

8 Q Was there another presentation that day?

9 A There was. It went about three hours. We were back

10 in his office. He showed his steeplechase racing. He was

11 very proud of riding, and so he said he had won some of

12 those races that he was showing. And then after he showed

13 those, he opened up his laptop and he started talking

14 about the AIDS research.

15 Q Now let's unpack that a little bit. You mentioned

16 steeplechase.

17 A Yes.

18 Q Tell the jury what you recall, if anything, him

19 saying about steeplechase winnings.

20 A He said that he was one of the top riders for

21 steeplechase. That nobody could beat him. And he won a

22 lot of money in steeplechase riding. He had four horses.

23 I met the horses. They're beautiful.

24 Q Okay. Now then, let's put that aside and let's go

25 back to these individuals there in the house. You

DIRECT EXAMINATION OF DIANE DESCH

192

1 mentioned that he did the same presentation that he did
2 for you.

3 A Same presentation. Exactly the same. And it went
4 two to three hours, and that's because talking about the
5 steeplechase, and then two hours for the AIDS thing. And
6 during that time, the lady on his left said, "Really?
7 Michael, you have really done a good job." She said, "You
8 could never sit still in the classroom at all." And she
9 looked at me and she said, "He was so dis --

10 MR. WAGNER: Objection. Hearsay.

11 THE COURT: Objection sustained.

12 Q Ma'am, at the conclusion of that investment
13 presentation to these individuals in the photo, did you
14 observe him ask them if they wanted to put money in M.F.
15 Harris Research?

16 A He did at the end. He said, "You know, I can always
17 use someone to invest, and you're more than welcome to
18 help me. I'm still working on getting enough money for
19 the research."

20 Q Now, how soon after that presentation did you stay or
21 did you leave?

22 A I was there all afternoon, and then I left. I wanted
23 to leave before dark because I really don't know how to
24 drive in the mountains.

25 Q Now, you mentioned earlier, eventually did the

DIRECT EXAMINATION OF DIANE DESCH

193

1 defendant contact you about giving him money?

2 A Yes.

3 Q Take a look at Exhibit 89, which will be the next
4 one. Tell us if you recognize that.

5 A This is from June 13th. I gave him \$2,500. That was
6 the amount of money he said he needed to secure his
7 European patent.

8 MR. GILL: Your Honor, we move for admission of
9 Exhibit 89.

10 THE COURT: Any objection, Mr. Wagner?

11 MR. WAGNER: No.

12 THE COURT: Exhibit 89 is received.

13 That was June the 13th? Is that the date?

14 MR. GILL: Yes, Your Honor. And if we could publish
15 this?

16 THE COURT: Yes. Go right ahead.

17 (Government's Exhibit 89 is received.)

18 MR. GILL: And if we could zoom in.

19 THE COURT: Yes. Go right ahead.

20 Q And we have zoomed in there on the screen in front of
21 you. In fact, do you see the withdrawal that you made?
22 It says the date it was written was June 13. Was that to
23 give the defendant the money?

24 A Yes.

25 Q Now, according to what he told you, what was the

DIRECT EXAMINATION OF DIANE DESCH

194

1 timeliness of this and what was the money going to be used
2 for?

3 A It was around 10:30 when he called. He said, "*I have*
4 *to have the money by noon.*" It had to be in by noon. And
5 so I went to the bank and I called him after and told him
6 that the money is in the bank.

7 He said, "*Thank you so much.*" He said, "*This has*
8 *secured my European patent for the research and*
9 *development for the AIDS virus.*"

10 Q Now, eventually did you invest more?

11 A I did.

12 Q Take a look at Exhibit 90, and tell us what that is.

13 A That is his explanation of M.F. Harris Research on
14 the virus and what he was -- because, I said, "*I don't*
15 *have any paperwork on this, and I need something.*" And so
16 he sent this to me.

17 THE COURT: Any objection to 90, Mr. Wagner?

18 MR. WAGNER: No, Your Honor.

19 THE COURT: Pardon me?

20 MR. WAGNER: No, Your Honor.

21 THE COURT: Okay. It will be received without
22 objection.

23 (Government's Exhibit 90 is received.)

24 MR. GILL: Let's zoom in first on the upper portion,
25 please. There we go. Up at the top.

DIRECT EXAMINATION OF DIANE DESCH

195

1 Q Tell us who this e-mail is from and who it was to, as
2 well as the date.

3 A It's from Michael Harris, MF Harris, to
4 xxxxxxxxxxxx@yahoo.com.

5 Q That's your e-mail address?

6 A At the time, yes, that was my e-mail address.

7 Q Now in connection with your investment, did the
8 defendant talk about the value of the shares you were
9 buying versus what he anticipated the value to be?

10 A He said that if I invest in shares in the company, it
11 would help toward securing the patent here in the United
12 States and finishing his research. So he said, "*The*
13 *shares per block is \$5,000.*" He said, "*You've given half*
14 *of a block of shares, \$2,500, but if you give another*
15 *\$2,500 you secure a full block.*"

16 And so I actually gave him more money to secure two
17 full blocks of shares. And he said at the time they were
18 a dollar a share, but he said they would be about \$22 or
19 \$23 a share. That's what they currently were worth. And
20 then when it goes public, it could go up.

21 And the only reason I said, "*You know, this is a lot*
22 *of money for me. I want to buy my home.*"

23 He said, "*You'll more than be able to buy your home.*"

24 MR. GILL: Now then, if we could scroll down to the
25 bottom of this, please. And at the bottom it says,

1 *"Funding details."* Please zoom in on that.

2 Q And tell us, ma'am, if that is generally what you
3 understand based on what the defendant told you and what
4 he e-mailed you was going on at that time.

5 A Yes.

6 Q What was the money being used for?

7 A For the finalization for Phase III for the cure of
8 AIDS.

9 MR. GILL: And if we look at Page 2 of this e-mail.

10 Q And it's signed at the bottom, *"Michael F. Harris,*
11 *CEO"*?

12 A Yes.

13 Q When you invested your money, where did you
14 understand your money was going, to Michael Harris or to
15 Michael Harris' company?

16 A For his company.

17 Q Did he also send you a subscription agreement and a
18 non-disclosure agreement with this e-mail?

19 A Yes, he did.

20 Q And are those attached?

21 A Yes, they are.

22 Q Aside from that, was anything else sent with this
23 e-mail?

24 A Well, the non-disclosure. But, no. No. I signed
25 these. All of them.

DIRECT EXAMINATION OF DIANE DESCH

197

1 Q Let's take a look at Exhibit 91. And it's there in
2 the folders there in front of you, ma'am. Tell the jury
3 if that is indeed the subscription agreement and the
4 non-disclosure agreement that you signed?

5 A Yes, it is.

6 MR. GILL: Your Honor, we'd move for admission of
7 Exhibit 91.

8 THE COURT: Any objection to 91, Mr. Wagner?

9 MR. WAGNER: No, Your Honor.

10 THE COURT: Be received.

11 (Government's Exhibit 91 is received.)

12 MR. GILL: See Page 1. And just zoom in on the upper
13 portion.

14 Q The jury's seen this before. Is it fair to say that
15 you signed this, and Michael Harris' signature is on there
16 as well?

17 A Yes.

18 Q The 17th of June, 2011. Now, did you sign this in
19 person or by mail, if you recall?

20 A We signed it in person.

21 THE COURT: You said you signed it in person?

22 MS. DESCH: Yes.

23 Q Now, it references 5,000 shares. Did you up your
24 investment?

25 A I did.

DIRECT EXAMINATION OF DIANE DESCH

198

1 Q Now then, let's look at Page 2. Is that the
2 non-disclosure agreement that you signed?

3 A Yes, it is.

4 Q Look at Exhibit 92.

5 THE COURT: Before you move on to 92, I think I'm
6 going to give the jury a 10 minute break at this point.
7 Are we nearing the closure of your direct examination?

8 MR. GILL: Probably about five or -- well, probably
9 five or 10 minutes.

10 THE COURT: I'm going to give the jury a 10 minute
11 break.

12 Ladies and gentlemen, let's take a 10 minute
13 afternoon recess. We'll resume about 10 minutes till
14 4:00.

15 (The jury is no longer present in the courtroom.)

16 THE COURT: Ms. Desch, you may step down for a few
17 moments.

18 We'll be in recess for approximately 10 minutes.

19 (Recess taken.)

20 THE COURT: Ready for the jury?

21 MR. GILL: We are, Your Honor.

22 THE COURT: All right.

23 Marshal, bring the jury in.

24 (The jury is present in the courtroom.)

25 THE COURT: Ladies and gentlemen, I'm sorry for the

DIRECT EXAMINATION OF DIANE DESCH

199

1 delay in getting started, but I had a conference call in
2 another case that I had to take care of before I could
3 come back. So thank you for being patient with me.

4 All right. Next question.

5 Q Ms. Desch, when we left off we were talking about
6 your \$7,500 investment. Take a look at Exhibits 92 and 94
7 in front of you.

8 THE COURT: Exhibits 92 and 94?

9 MR. GILL: Yes, Your Honor. And for the record, I
10 would move for the admission of Exhibits 92 through 94.

11 THE COURT: Any objection, Mr. Wagner?

12 MR. WAGNER: One moment, Judge. No objection.

13 THE COURT: They will be received. And you may
14 publish them if you wish, Mr. Gill.

15 (Government's Exhibits 92 - 94 are received.)

16 Q We'll look at Exhibit 92, Page 1. It's going to
17 flash on the screen, Ms. Desch. And if you would tell
18 them what it is that we're looking at.

19 A This is my wire transfer of \$7,500 to Michael F.
20 Harris Research, Incorporated.

21 Q Ma'am, this is at the heart of one of the counts of
22 the indictment, so I want to talk to you about some of the
23 information on this. What is the date you sent the
24 transfer?

25 A June 28, 2011.

DIRECT EXAMINATION OF DIANE DESCH

200

1 Q What account did it come from?

2 A It came from my Wachovia, which is now Wells Fargo.

3 Q Ma'am, actually, at the top. "*Source Information*" up
4 at the top.

5 A Oh, I'm sorry. Union First Market Bank. I
6 apologize.

7 Q You also have a Wachovia account?

8 A I do.

9 Q But this money came from your Union First Market
10 Account?

11 A Yes.

12 Q Tell the jury where you were when you gave the order
13 to send this wire transfer.

14 A I was home.

15 Q Did you go to the bank to do this?

16 A I did.

17 Q What bank did you go to?

18 A Wachovia.

19 Q And, ma'am, did you go to your bank to do the wire
20 transfer for this \$7,500?

21 A I did.

22 Q Is that a bank that's located near your home in the
23 west end?

24 A Yes, it is.

25 Q And is that bank located in Henrico County?

1 A Absolutely.

2 Q Okay. Now if we scroll down. So it's coming from
3 Union First Market Bank, Diane Desch. What account is it
4 going to?

5 A M.F. Harris Research, Incorporated.

6 Q At what bank?

7 A Wachovia.

8 Q And was that your money going to the business?

9 A Yes, it was.

10 Q Did you sign this?

11 A I did.

12 Q Now let's look at Exhibit 94. And tell us what it is
13 we're looking at here, ma'am.

14 A You're looking at the deposit wire to Michael F.
15 Harris, Incorporated for \$7,500.

16 Q And, ma'am, I'm looking at Exhibit 94.

17 A I'm looking at 94.

18 Q Okay. You're on Page 2?

19 A Yeah, I'm on Page 2.

20 Q So Exhibit 94 is your Union First Market?

21 A Yes.

22 Q Okay. And then we look at Page 2. And there at the
23 bottom it's on the screen. What are we looking at?

24 A Wire out to M.F. Harris Research, Inc.

25 Q Is that the money going out of your account to M.F.

1 Harris Research?

2 A Correct.

3 Q Okay. Now, soon after this did you get your stock
4 certificate for your investment?

5 A I did. He came to my house to deliver it.

6 Q Take a look at Exhibit 95.

7 A Okay.

8 Q Do you recognize that?

9 A Yes. It was an e-mail that I sent to Michael Harris.

10 MR. GILL: Your Honor, we'd move for admission of
11 Exhibit 95.

12 THE COURT: Any objection, Mr. Wagner?

13 MR. WAGNER: No, Your Honor.

14 THE COURT: Be received.

15 (Government's Exhibit 95 is received.)

16 Q Let's take a look. And let's zoom in on the bottom,
17 please. And that is from you to Michael Harris. What are
18 you telling him here?

19 A *"do you have a ball park/ time frame on when you will*
20 *be arriving? See you then. Diane."*

21 Q Did you provide him with any of your address
22 information?

23 A Yes, I did. I gave him my address so that he could
24 come to my home.

25 Q Now, prior to this had he ever been to your house?

1 A No.

2 Q Now, let's look at Exhibit 96. Tell us what that is.

3 A This is a certificate of 10,000 shares in Michael F.
4 Harris Research, Incorporated.

5 MR. GILL: Your Honor, we move for admission of
6 Exhibit 96.

7 THE COURT: Any objection to 96?

8 MR. WAGNER: No, Your Honor.

9 THE COURT: Be received.

10 (Government's Exhibit 96 is received.)

11 Q Now we see it on the screen. Is that for the full
12 10,000 shares, including the 2,500 plus the 7,500?

13 A Yes, it is.

14 Q Tell the jury, that \$7,500 that you wire transferred
15 to Michael Harris, what did you understand that money was
16 going towards?

17 A The research and finalization of -- the research for
18 AIDS.

19 Q At any time in connection with that did the defendant
20 talk to you about using that money for his own personal
21 expenses?

22 A No.

23 Q Would you have given that money if he told you he was
24 going to use that for himself?

25 A No.

DIRECT EXAMINATION OF DIANE DESCH

204

1 Q Now, when he came to your house to deliver those
2 shares around July 7, 2011, was there anyone there at your
3 house to see him?

4 A My son and his girlfriend.

5 Q Describe for the jury, did the defendant do a
6 presentation there?

7 A He did. He did a presentation for my son and Sarah.
8 And I was surprised that he was going to do that for a
9 teenager.

10 Q And did he ask them to invest or anything that you
11 witnessed?

12 A Yes, he did. Jokingly he did.

13 Q Okay. Now, did he stay the night at your house that
14 night?

15 A Not that night. No.

16 Q Was there another visit to Richmond?

17 A There was. He said he had to have shoulder surgery
18 -- not shoulder surgery, but having a problem with his
19 shoulder because he had an accident, a riding accident,
20 and he hurt his shoulder and he needed to go to MCV
21 Hospital.

22 Q In connection with that visit did he see any of your
23 friends?

24 A Yes. He saw a friend named Colette Moussali.

25 Dr. Colette Moussali. I invited her over to meet him.

DIRECT EXAMINATION OF DIANE DESCH

205

1 Q Why did you invite Dr. Colette Moussali to come over?

2 A Because he said he was looking for patients that have
3 AIDS, and he was getting ready to go into the next phase
4 where he needed at least 10 patients to actually put into
5 action his research.

6 Q So this is pretty imminent?

7 A It is.

8 Q Did he do a presentation for Dr. Moussali?

9 A He did a two to three hour presentation. The same
10 presentation he did before.

11 Q At the end of that presentation, did he ask
12 Dr. Moussali to invest?

13 A Yes, he did. And she said she didn't have enough
14 money at that time.

15 Q Did you observe her make any offers to get any
16 patients for the defendant?

17 A She did. She offered. She said, *"If you're really*
18 *serious about your research, I have at least two patients*
19 *you can start with."* And he gave her his number, and she
20 tried calling and he never called back.

21 MR. WAGNER: Objection to hearsay, Your Honor.

22 THE COURT: Objection sustained.

23 Q Ma'am, after that presentation did he stay the night
24 at your house?

25 A Yes, he did.

DIRECT EXAMINATION OF DIANE DESCH

206

1 Q And tell the jury were you romantically involved with
2 the defendant?

3 A Yes, I was.

4 Q Were there any other times after that?

5 A No.

6 Q Now, soon after you had invested your \$7,500 at the
7 end of June and early July, did you provide the defendant
8 with any other money?

9 A I did.

10 Q Take a look at Exhibit 97.

11 A Three thousand dollars.

12 Q Tell us how this came to pass that you gave the
13 defendant more money.

14 A He said he needed \$3,000 for shoeing -- for putting
15 new hooves on the horses, four horses, so he could
16 continue his steeplechase races and use the proceeds for
17 -- he needed more money, and so he would -- those winnings
18 would go toward getting those patients in, you know.

19 Q According to the defendant, the full \$3,000, what was
20 it going to be used for?

21 A It was for the horses. To shoe the horses so they
22 had hooves on their feet.

23 Q Was this a gift or was this a loan?

24 A This was a loan.

25 Q Did he talk to you about paying you back?

1 A No.

2 Q Was there any discussion with him about how imminent
3 it was that the steeplechase race was coming?

4 A Oh, he said he was getting them ready. And he even
5 said that he would probably be riding in the Warrenton
6 horse show.

7 MR. GILL: Your Honor, we move for admission of
8 Exhibit 97.

9 THE COURT: What is that? Is that a check, a
10 document, or what?

11 MR. GILL: It is the transfer record that she
12 maintained of that \$3,000 payment.

13 THE COURT: All right.

14 Any objection, Mr. Wagner?

15 MR. WAGNER: No, Your Honor.

16 THE COURT: Be received.

17 (Government's Exhibit 97 is received.)

18 MR. GILL: Let's zoom in on that.

19 Q And tell the jury what it is we're looking at.
20 Describe for us what that is, ma'am.

21 A That's my Wachovia statement of deposit for \$3,000.

22 Q And whose account did that \$3,000 go to?

23 A It went to Michael -- Michael F. Harris Research.

24 Q Now, aside from that -- and that's the \$3,000 that
25 was going to shoe the horses?

1 A Yes.

2 Q Now then, aside from that did you provide the
3 defendant with any other money or pay for any other bills
4 for him?

5 A One other thing. He had a phone bill that he called
6 me about and said that he really needed some help because
7 he would lose his phone. It was a -- it was his calls
8 that he was making back and forth to Europe on.

9 THE COURT: To where?

10 MS. DESCH: To Europe.

11 THE COURT: To Europe. Okay.

12 MS. DESCH: European calls.

13 Q In looking at Exhibit 99, these are your handwritten
14 notes, ma'am, but are those notes you took in relation to
15 paying that bill?

16 A Yes. Because he wanted my account number and I said,
17 *"No, I will call and do what I can. But I'll call your*
18 *phone company direct."*

19 Q Ballpark when was it that you made those payments?

20 A November.

21 Q Of what year?

22 A 2011.

23 THE COURT: Any objection to 99, Mr. Wagner?

24 MR. WAGNER: No objection.

25 THE COURT: Be received.

DIRECT EXAMINATION OF DIANE DESCH

209

(Government's Exhibit 99 is received.)

A I actually paid on September 14th the October --

MR. WAGNER: Objection. There's no question pending.

THE COURT: Pardon me?

MR. WAGNER: I don't believe there's a question pending.

THE COURT: Wait until the next question is asked.

Go right ahead.

Q Describe for us what we're looking at there, ma'am.

A It's my writing when I called the phone company. And he needed \$123 for September, \$123 plus -- I mean, for October he needed \$177. And in November he needed \$123. So the current charges that he needed were \$423. And that's what I paid on his -- for securing his phone.

Q Did you pay it? Was that paid directly to the company?

A It was directly to the company.

Q Now, ma'am, since that time had you seen the defendant?

A No.

Q Did you have any other contact with him?

A By phone. I would call every now and then and ask him how was his research going. I hadn't heard from him in a while.

Q What would he tell you when he called?

CROSS-EXAMINATION OF DIANE DESCH

210

1 A He said, *"It was taking longer. I need more money."*

2 And so I said, *"Well, I don't have any more money to*
3 *give you."*

4 Q And to this day have you received any return on that
5 investment?

6 A Nothing.

7 Q Have you received any financial records from the
8 defendant's company showing how your money was spent?

9 A No.

10 MR. GILL: Pass the witness, Your Honor.

11 THE COURT: Cross-examination, Mr. Wagner?

12 MR. WAGNER: Yes, Your Honor.

13 **CROSS-EXAMINATION**

14 BY MR. WAGNER:

15 Q Good afternoon.

16 A Good afternoon.

17 Q When you first met Michael, you indicated you met him
18 at a horse race in Warrenton, is that correct?

19 A Not a horse race. A horse show.

20 Q A horse show. Excuse me. A horse show. I'm not
21 familiar with the horse business, so you'll have to excuse
22 me.

23 A That's okay.

24 Q And after that, the next contact you had with him you
25 called him, correct?

1 A I did. He gave me his card and said, "*Give me a*
2 *call.*"

3 Q And when all was said and done -- well, you had a
4 romantic relationship with him, correct?

5 A Yes. One time.

6 Q And you spent a considerable amount of time with him
7 over those two years?

8 A Not really. No.

9 Q You wouldn't say that?

10 A No, I'm not.

11 Q When all was said and done, is it fair to say you
12 were embarrassed by your relationship with him?

13 A I was not embarrassed. I didn't know that I should
14 have been.

15 Q Did you say to the investigator that you were
16 embarrassed talking about your romantic relationship?

17 A Yes.

18 Q And during the time that you were spending time with
19 Mr. Harris, was that before or after the surgery?

20 A Before the surgery.

21 Q And were you suffering from headaches at that time?

22 A I was off and on.

23 Q And were you taking any medication for the headaches?

24 A I was using Advil.

25 Q That's all?

1 A That's it. I don't like medicine.

2 Q And around this time you indicated that you suffered
3 some losses from a Nigerian scheme that you were involved
4 with, is that right?

5 A I did.

6 Q And that was several hundreds of thousands of
7 dollars, wasn't that right?

8 A Yes, it was. At the time I didn't realize how many
9 several thousands of dollars.

10 Q And you had to declare bankruptcy, is that right?

11 A I did not declare bankruptcy.

12 Q I'm sorry. I apologize. I thought you did.

13 And the surgery that you had, has that caused you
14 some memory loss?

15 A No.

16 Q Did you say to the investigator in this case that it
17 caused you some memory loss?

18 A No.

19 Q Did you say to the investigator that it caused you
20 some confusion?

21 A Sometimes.

22 MR. WAGNER: Excuse me just a second.

23 THE COURT: Yes, sir.

24 Q Now, when you first met Mr. Harris you had some
25 things in common with him, is that correct? For instance,

1 you had an interest in horses?

2 A The reason I had an interest in horses was that my
3 grandmother and my aunt rode. I was interested because it
4 was such a familiar thing, and it was routine to go to the
5 horse show once a year.

6 Q And he was a steeplechase rider?

7 A He was. I didn't know a lot about steeplechase. I
8 know about show riding, but not about steeplechase riding.

9 Q Now, you knew he had some involvement as a kayak and
10 canoer, is that correct?

11 A He gave me a tour of his home and I saw the kayak.
12 And he said he was on the Olympic team.

13 Q And had you tried out for an Olympic team when you
14 were younger?

15 A No. I competed in figure skating at the national
16 level.

17 Q Were you hoping to maybe get to the Olympics?

18 A Yes and no.

19 Q Now, you indicated that you went to his house?

20 A Yes.

21 Q And that was on one occasion?

22 A Yes.

23 Q And you indicated he had a little office in the
24 house, is that right?

25 A He did. He does.

1 Q Isn't it true that the office really extended the
2 full width of the house?

3 A No.

4 Q And isn't it true that it went probably 15, 20 feet
5 in width?

6 A It wasn't a very big room. It was just a little wing
7 of the house.

8 Q And you were aware of the lifestyle that he kept
9 during that time when you visited with him, right?

10 A I was -- I was aware of what he told me. And the
11 only thing that I saw was what I saw in his home. But it
12 didn't add up.

13 Q He drove an old car, didn't he?

14 A He had a blue Jeep. Yes.

15 Q And it wasn't a late model Jeep, was it?

16 A No.

17 Q And his house was kind of falling apart, is that safe
18 to say?

19 A On the outside. The inside looked good. He was
20 working on one room at a time.

21 Q And in the beginning of the relationship with him,
22 isn't it true that you went to a country club for dinner
23 with him?

24 A No. That is incorrect.

25 Q You didn't tell that --

CROSS-EXAMINATION OF DIANE DESCH

215

1 A I went to the country club for lunch.

2 Q For lunch. I apologize.

3 And after you ate he left you with the bill, didn't
4 he?

5 A He did.

6 Q And was that before or after you had invested in his
7 company?

8 A When I went up to -- that was before.

9 Q Okay. Now, at some point you loaned him, or you said
10 you loaned him, \$3,000 for the shoeing of the horses, is
11 that correct?

12 A Correct.

13 Q Do you remember telling the agent in this case, Agent
14 Gregor, in May of 2012 that that was a gift?

15 A I don't remember saying that it was a gift. I knew
16 that it was going to come back to me because he said he
17 would use the money for the proceeds of winning the
18 steeplechases. He needed the shoes in order to -- for the
19 horses to be fit to race and in order to have more money
20 for the next phase in the AIDS -- in the research for
21 AIDS. That he needed some more money, and he was a
22 shoe-in as far as winning those races. So I -- I felt it
23 was an investment. And he indicated that's what he was
24 using the money for. Not just because they were shoes,
25 but he needed them.

CROSS-EXAMINATION OF DIANE DESCH

216

1 Q I understand. And would you say your recollection is
2 clearer now than it was in May of 2012?

3 A Clearer now than it was then? It's as clear now as
4 it was then.

5 Q Good. Let me show you something that may help
6 refresh your recollection. If you would look, this is a
7 302 from Agent Gregor, a May 1, 2012 interview. And if
8 you would look at the portion of that interview that is
9 highlighted. Does that help to reflect your -- to refresh
10 your recollection?

11 A I could have said it was a gift. I know that I could
12 have said that. Absolutely. But what I did know that was
13 very clear was that he said he was going to shoe the
14 horses so that they would be fit to do steeplechase, and
15 the money that he was going to -- that he won from that
16 would go directly to the research.

17 So I -- I felt it was, you know, if he didn't have
18 his horses -- if he didn't have his cell phone I couldn't
19 get ahold of him and he couldn't continue with what he --
20 he said he had taken all of his money, he had no more
21 money, and put everything, his life, his soul into this
22 research. So you can play on words, and I may have said
23 that, but the bottom line is he said he was using it for
24 the research for AIDS.

25 Q Sure. And that reference that you made to the

CROSS-EXAMINATION OF DIANE DESCH

217

1 shoeing of the horses for \$3,000, that was said in
2 conjunction with what you said about the telephone bills
3 that you paid, correct?

4 A Telephone bill, again. You know, how can I get ahold
5 of him. And I had money invested. He said he wouldn't be
6 able to have a phone. That's not a good sign when you
7 have money invested and you don't -- you want that
8 contact. I was willing to pay for that in order for
9 him -- to get ahold of him.

10 Q And is it fair to say that the money for the
11 telephone bill was a gift?

12 A I don't think I'm ever going to get it back. So,
13 yes.

14 THE COURT: Ladies and gentlemen, can you hear the
15 witness okay?

16 MS. DESCH: I'm sorry. I keep going away from the
17 microphone. I apologize.

18 THE COURT: All right.

19 Q Now, I want to show you what's been marked as Defense
20 Exhibit 53.

21 THE COURT: The number again, please.

22 MR. WAGNER: Number 53, Judge.

23 THE COURT: Fifty-three. That's already in evidence,
24 is it not?

25 MR. WAGNER: I don't think we've introduced it yet,

1 Judge, but it's been referenced.

2 THE COURT: Okay, sir.

3 A I recognize this book. He carried it with him
4 wherever -- in a briefcase though, a leather briefcase.
5 And it has letters validating that he went to Duke
6 University and then went to MCV Hospital. That he knew --
7 that he knew a lot of the doctors from both, and that they
8 gave him the keys to the labs in order for him to continue
9 the research.

10 Q That was some years ago when he was at Duke, is that
11 correct?

12 A I didn't know him then, but that's what he said.

13 Q And did he show that book to Dr. Mousari?

14 A Moussali.

15 Q Excuse me. Moussali.

16 A Yes, he did.

17 Q And did he show it to the group of teachers?

18 A Yes, he did.

19 Q Okay. And were they free to look through the book?

20 A Absolutely they were. We were -- you know, when
21 you're in a group full of people and he's explaining
22 himself, at the time you don't think he's going to lie to
23 you, so you listen. We all looked through the book and
24 read some of them. Not all of them. But he prided
25 himself on this.

CROSS-EXAMINATION OF DIANE DESCH

219

1 And when he first showed me his lab work, he feels
2 like this is all of, you know, his validations from people
3 that, one, invested; and, two, that validated his
4 research. You know, when you have something like this,
5 you feel like he is telling you the truth.

6 Q Sure. He's very passionate about his cause?

7 A Yes. He was very passionate. He was so passionate
8 he wouldn't let me talk about me.

9 Q Can you point -- can you turn to where there is a
10 little marker there in the binder. Do you now see that
11 report there?

12 A Yes.

13 Q And do you recognize that?

14 A You know, honestly I don't. I really don't. I don't
15 know that -- remember whether he had shown me this or not.

16 THE COURT: And so the record is clear, do you want
17 to mark that with a sub-exhibit number so the record will
18 show what page she's looking at?

19 MR. WAGNER: Perhaps we can mark that with Exhibit
20 53-A, Judge?

21 THE COURT: All right. Fine.

22 MS. DESCH: Did you want me to read it out loud?

23 THE COURT: No, ma'am. I do not.

24 (Defendant's Exhibit 53-A is received.)

25 Q Now, you don't recall whether or not you saw that

1 before you made your investment?

2 A No.

3 Q Do you remember if you asked for any kind of
4 financial information from Mr. Harris before you made your
5 investment?

6 A Excuse me?

7 Q Did you ask for any financial information before you
8 made your investment?

9 A I asked him for validation of where this was going.
10 I felt that the agreement and subagreements and his -- the
11 information he sent me on his research right after I sent
12 him the money, I said, *"I need to have validation on the
13 money that I'm giving you."*

14 Did I answer your question?

15 Q I'm not sure.

16 A Okay.

17 Q But I'll move on.

18 Now, when he offered you the -- or when he asked for
19 the \$2,500 for the patents --

20 A It was the European patent. He was very clear about
21 it. He said, *"If you don't invest in the European patent,
22 then anything I do from here on I have to have that or I
23 cannot continue with the American patent because FDA
24 approved here in the United States takes so much longer
25 than it does in Europe."*

CROSS-EXAMINATION OF DIANE DESCH

221

1 Q And is it your understanding that that money, or at
2 least \$2,100 of that money, went to the European patent?

3 A The \$2,500, absolutely, to finalize his patent
4 payment. And it had to be in by noon. And I absolutely
5 did. And then he told me about the shares right after and
6 that -- and how much the shares would cost.

7 Q Now, that additional investment that you made was for
8 \$7,500, correct?

9 A Yes. To finalize two squares. You know, one square
10 of shares was \$5,000. I gave \$2,500, and that's why I
11 gave \$7,500 to complete two squares. And he said -- and
12 that was right before he came to my home to tell me -- to
13 deliver the certificate.

14 Q And do you remember exactly what he said when you
15 gave him the \$7,500?

16 A Absolutely I do.

17 Q Okay.

18 A This was to finalize two blocks of shares or \$10,000.
19 Two blocks of shares, a dollar a share, and that --
20 because I was investing for the shares to help pay for the
21 research for the cure of AIDS. And I would not have done
22 it if it wasn't for that.

23 I would not have given any money if I didn't --

24 THE COURT: Hold on. Wait a second. Wait for the
25 next question.

1 MS. DESCH: Okay.

2 Q Did you write down what he told you about what was
3 going to happen with your money for the 7,500 shares?

4 A No, I did not.

5 COURT REPORTER: Your Honor, they can't hear him.

6 MR. WAGNER: I'm sorry. Am I not speaking loud
7 enough?

8 JUROR: We can't hear you.

9 MR. WAGNER: I'm sorry. I'm sorry. I'll try to turn
10 up the volume.

11 A I did not write it down because he said he was coming
12 to my house and giving me all the information I needed.
13 And when he did come to my home, he gave me the
14 certificate, he gave me the agreement, sub-agreement, the
15 non-disclosure. And he signed it in front of me at my
16 home. And that's why I invited -- then I invited Colette
17 Moussali to come as a doctor because I wanted to make sure
18 that what I was doing was valid.

19 Q And a lot of this was a personal interest because of
20 your father, right?

21 A Absolutely.

22 Q And when did you last see your father?

23 A It's an unusual story. I was born and my father was
24 in New York. He casted All My Children before he died.

25 Q If you could, could you just answer the question,

1 please.

2 A Okay.

3 THE COURT: Why don't you repeat the question one
4 more time.

5 Q When was the last time you saw him?

6 A My real father never saw me. He died of AIDS. I
7 only had two weeks with him when I was 23 years old when I
8 went up to New York to Sloan Kettering Memorial. And I
9 was there with him when he died. That is all I have of my
10 father. I have a stepfather.

11 Q Now, the document that you referred to, can you open
12 that up and look at that, please.

13 THE COURT: This is 53-A?

14 MR. WAGNER: Yes, sir. Exhibit 53-A.

15 THE COURT: All right.

16 A Open it up? It's got several pages inside it.

17 Q If you can just take it out of the plastic folder.

18 Now, do you remember seeing that document?

19 A You asked me that question before and I said no.

20 Q Okay. As you look through it --

21 A Well, I don't remember this page. But you had it in
22 a sleeve so that I couldn't see it.

23 Q I'm sorry. Please look through it.

24 A Okay. This is similar to what he sent to me. And I
25 don't -- all of this stuff was not in there. If he did

CROSS-EXAMINATION OF DIANE DESCH

224

1 show this to me, I don't remember him looking and showing
2 me this. This is bits and pieces. He give me a few
3 pages. He didn't give me all of this. I did not see all
4 of that.

5 THE COURT: Well, I think in order to make the record
6 clear she's going to have to identify what she's seen and
7 what she's not seen, otherwise the record --

8 MS. DESCH: I have not seen these.

9 THE COURT: Hold on just one second. Just one
10 second. Wait for the next question.

11 I think you need to clarify that for the record,
12 Mr. Wagner.

13 MR. WAGNER: All right. Very well.

14 Q If you will go page by page and let the jury know
15 which pages you've seen and which pages you haven't seen.

16 A Okay. Again, part of these are part of the
17 agreement, but some of them are not. And when he showed
18 me this book, I could have -- there are some things that
19 he flipped through and showed me, so there are things that
20 I don't remember, or I just glanced over. So I cannot
21 give you an honest answer on these.

22 Q All right. Do you see a page there that references a
23 salary for the CEO and president of the company?

24 A He showed me nothing that had salaries for any of the
25 CEOs.

REDIRECT EXAMINATION OF DIANE DESCH

225

1 Q Do you see a page there that references that? I
2 believe it's the third page from the top.

3 A Third page from what?

4 Q From the front of the document.

5 A I don't recognize these.

6 Q Very well.

7 A I never saw them.

8 Q Thank you.

9 A Not these.

10 Q Okay. You can put them back.

11 A Yeah. No. And if he did show them, again, I don't
12 remember.

13 THE COURT: Okay. Why don't you just put them back
14 in the sleeve there and we'll proceed to the next
15 question.

16 MR. WAGNER: Excuse me.

17 THE COURT: Yes, sir.

18 MR. WAGNER: I have no further questions.

19 THE COURT: Any redirect, Mr. Gill?

20 MR. GILL: Very, very briefly.

21 THE COURT: Okay, sir.

22 MR. GILL: Your Honor, just so the record is clear,
23 we would go ahead and move for admission of 53-A, the
24 defense exhibit. It's already been admitted by the
25 government, but just so the jury is clear on what she

REDIRECT EXAMINATION OF DIANE DESCH

226

1 looked at, we'd move for admission of that.

2 THE COURT: All right. It will be 53-A as a package
3 in the sleeve.

4 MR. GILL: Just that paper.

5 THE COURT: It will be received as Defendant's 53-A.

6 MR. GILL: Thank you.

7 **REDIRECT EXAMINATION**

8 BY MR. GILL:

9 Q Ms. Desch, just one area. With respect to Mr. Wagner
10 asked you at the very start about whether you were
11 embarrassed about being in a romantic situation with the
12 defendant. Tell the jury, put it in context, who was
13 there during that interview, and why were you embarrassed
14 to talk about that?

15 A My older son was in there. He said, "Mom,
16 something's wrong. You need to have someone hear that
17 this is illegal."

18 So when he was sitting in the room while we were
19 going over everything, I had to admit in front of my son
20 that I had slept with him.

21 MR. GILL: No further questions, Your Honor.

22 THE COURT: All right.

23 May Ms. Desch be excused at this point, Mr. Wagner?

24 MR. GILL: Yes, Your Honor.

25 THE COURT: Mr. Wagner?

DIRECT EXAMINATION OF NICOLE GENTRY

227

MR. WAGNER: Yes, Your Honor.

THE COURT: Ms. Desch, you're excused and free to go.
Thank you for coming in. We appreciate your testimony,
ma'am.

WITNESS STOOD ASIDE

MR. NASEEM: Your Honor, the United States calls --
I'm sorry. The United States calls Nicki Gentry.

THE COURT: Nicole Gentry. All right.

Ms. Gentry, if you would raise your right hand, place
your left hand on the Bible, and face the Clerk of the
Court.

THE CLERK: You do solemnly swear that the testimony
which you are about to give, in this case, before this
Court, shall be the truth, the whole truth, and nothing
but the truth, so help you God?

MS. GENTRY: I do.

THE COURT: Have a seat on the witness stand.

MS. GENTRY: Yes, sir.

Whereupon, **Nicole Gentry**, having been
duly sworn in, testifies as follows:

DIRECT EXAMINATION

BY MR. NASEEM:

Q Good afternoon, Officer Gentry.

A Good afternoon.

Q Could you state your name for the ladies and

DIRECT EXAMINATION OF NICOLE GENTRY

228

gentlemen of the jury, and tell them where you live.

A My name is Nicole Gentry. I live in Fredericksburg, Virginia in Spottsylvania County.

Q And, Ms. Gentry, can you please explain to the ladies and gentlemen of the jury what it is you do for a living.

A I'm a law enforcement officer for the Fredericksburg Police Department.

Q And, Officer Gentry, how long have you been a police officer with the Fredericksburg Police Department?

A Sixteen years yesterday, sir.

Q Now, Officer Gentry, are you familiar with the defendant, Michael Harris?

A I am.

Q Okay. Can you identify him to the ladies and gentlemen of the jury, please.

A The gentleman seated to my left.

THE COURT: The record will reflect that Officer Gentry has identified the defendant.

Q Officer Gentry, when and how did you first meet Mr. Harris, and what were the circumstances surrounding that meeting?

A The first time I met Mr. Harris was at a local pub in downtown Fredericksburg. I was introduced to him by what was a mutual friend at the time. A trusted friend of mine introduced me to Mr. Harris regarding a business type deal

DIRECT EXAMINATION OF NICOLE GENTRY

229

1 that I was supposed to be very hush, hush about and not
2 share information about, but rather I was invited to look
3 at a presentation that he was presenting on his laptop on
4 the patio area.

5 Q Now, you use the word "hush, hush." Before you went
6 to the meeting or when -- let ask you this. Did you go to
7 the meeting?

8 A I did.

9 Q When you were at the meeting, or before the meeting,
10 did you have to sign any documents?

11 A I did have to sign a confidentiality agreement
12 document.

13 Q Okay. Excellent. And what I would like you to do is
14 there is a set of documents there in front of you, and I'd
15 like you to pull out what is marked as Government's
16 Exhibit 26 in that first folder.

17 THE COURT: What was that number again?

18 MR. NASEEM: Government's Exhibit 26, Your Honor.

19 THE COURT: Twenty-six. All right.

20 A All right, sir.

21 Q And if you can take a look at that document. Take a
22 moment to look at that document, and once you've had a
23 moment to look at it let me know.

24 A I understand what this document is, sir.

25 Q Okay. Can you identify that document for the ladies

DIRECT EXAMINATION OF NICOLE GENTRY

230

1 and gentlemen of the jury?

2 A It's a non-disclosure agreement that was provided,
3 and you had to sign and date it.

4 THE COURT: Any objection, Mr. Wagner?

5 MR. WAGNER: No, Your Honor.

6 THE COURT: Be received. You may publish it if you
7 wish.

8 MR. NASEEM: Can you please publish 26.

9 (Government's Exhibit 26 is received.)

10 Q Now, focus in on the center part of the document
11 there, Officer Gentry. Did you read that language there
12 before you signed it?

13 A I did.

14 Q And can you give the ladies and gentlemen of the jury
15 a brief explanation of what your understanding was based
16 on what you read.

17 A My understanding was that once I signed this document
18 and chose to participate in this presentation, was that
19 any knowledge that I gained, anything that was spoken
20 about, that I was not to communicate with anyone else
21 about anything that I had heard or learned through this
22 presentation. I was to keep my mouth shut about it.

23 Q Now, scrolling down there to the bottom of that
24 document. Is that your signature?

25 A That's not my signature.

1 Q Who signed that?

2 A That's my partner, Meredith Gompf.

3 Q And did she attend that meeting?

4 A She did.

5 Q And is this the document that she signed?

6 A She did.

7 Q Okay. And did you sign a document similar to this
8 one?

9 A I did.

10 Q Now, looking at the date on the bottom of that
11 document, September 20, 2005. Was that right around the
12 time frame when this presentation would have occurred?

13 A As I recall, that's when the presentation and all the
14 disclosure agreements would have come into play. It was
15 important -- it was important to Mr. Harris that if you
16 were to choose to participate that you signed this
17 document.

18 Q Okay. Now, I believe I may have asked you this, but
19 where was that meeting held?

20 A It's called the Colonial Tavern. It's a local pub.
21 And I happened to be at that pub at the time I was
22 introduced to Mr. Harris. And it's at 406 Lafayette
23 Boulevard in downtown Fredericksburg.

24 Q Now, can you tell us a little bit about the
25 presentation. And did Mr. Harris speak at that

1 presentation?

2 A He did.

3 Q Tell us a little bit about that presentation.

4 A As I recall, the weather was nice enough where he
5 brought his laptop outside on the patio area and one of
6 the picnic tables that was out there, and we all kind of
7 gathered around the one table.

8 MR. NASEEM: At this time can we publish Exhibit 161,
9 please. It's already been admitted into the record, Your
10 Honor.

11 Q Officer Gentry, there in front of you is Government's
12 Exhibit 161?

13 A Yes, sir.

14 Q And if you can just thumb through that for a moment.
15 And if you could, could you identify that set of documents
16 that you're looking at there.

17 A So far as I flip through, sir, this appears to be
18 very similar to what was on the laptop on the patio area
19 of the tavern that evening. It was similar to a
20 PowerPoint presentation. It had graphs, and many
21 photographs and graphs that I had had no clear
22 understanding of. But it looks very similar to what was
23 on the laptop.

24 Q Now, could you tell the ladies and gentlemen of the
25 jury a little bit about what specifically it was that

DIRECT EXAMINATION OF NICOLE GENTRY

233

1 Mr. Harris was talking about with respect to the slides?

2 A Well, as I said, I didn't have a clear understanding
3 of all the information that was included in the slides.

4 What I was clear about when I left that day was that this
5 project was going to be -- to help research a cure for
6 AIDS. And that my understanding is that his works was
7 working towards the cure for the AIDS disease.

8 Q Now, were you provided with any documents at that
9 meeting that you recall?

10 A The kind of a document that kind of summarizes --
11 kind of a summary of what the studies were. It's kind of
12 like a summary of who was involved, and what they were
13 doing, and there was some biographies. Small snippets of
14 biographies.

15 Q Did Mr. Harris say anything about raising money?

16 A Yes. The monies needed to be raised for Phase II
17 research trials. Those words were used.

18 Q Okay. And at this time if you could pull out
19 Government's Exhibit 25. It's been labeled there in front
20 of you, ma'am.

21 A This is what I was referring to, sir.

22 Q Okay. Can you identify that document to the ladies
23 and gentlemen of the jury, please.

24 A It's a -- it's marked "*CONFIDENTIAL*." And it's
25 marked, "*EXECUTIVE SUMMARY*."

DIRECT EXAMINATION OF NICOLE GENTRY

234

1 Q And was this the document that you recall being
2 provided to you at that presentation in Fredericksburg?

3 A Yes. And this was supposed to be, again, information
4 that was not to be shared, you know.

5 THE COURT: Any objection, Mr. Wagner?

6 MR. WAGNER: No, Your Honor.

7 THE COURT: The executive summary will be received as
8 your 25.

9 (Government's Exhibit 25 is received.)

10 MR. NASEEM: Could we publish it.

11 Q Now, focusing in on the top portion of what's been
12 labeled as "*EXECUTIVE SUMMARY*," take a moment and just
13 give an explanation as to whether the information you see
14 there is the information that was imparted to you that day
15 at the Colonial Tavern in Fredericksburg, Virginia.

16 A Yes. I mean, there are many words in that paragraph
17 that I don't understand, but my understanding was that it
18 was research regarding a cure or remedy for AIDS. And
19 that there was some talk about hyperbaric chambers and
20 diving.

21 Q And when you were -- when you made -- when Mr. Harris
22 made that presentation, what affect did that have on you?

23 A Well, I wanted to -- certainly did want to help. I
24 mean, he seemed to be very interested and charismatic
25 about his work. And again, I was introduced to this

DIRECT EXAMINATION OF NICOLE GENTRY

235

1 gentleman by a trusted friend and, you know, I wanted -- I
2 wanted to help in some way. He seemed like he wanted to
3 do this work and he seemed very diligent about wanting to
4 do the work and wanting to do this good. And, you know,
5 at the time, frankly, I thought it was great that somebody
6 was wanting to do that.

7 MR. NASEEM: If we could scroll down to the fourth
8 paragraph, please.

9 Q Looking at that fourth paragraph, and I'll read it
10 out to the ladies and gentlemen of the jury, *"The Phase I
11 safety trials have been successfully completed, therefore
12 additional research funds of \$907,670 are being sought to
13 initiate Phase II trials."*

14 Did Mr. Harris talk about Phase II trials at this
15 meeting?

16 MR. WAGNER: Your Honor, I must object to counsel
17 reading from the document unless there's a question.

18 THE COURT: It's already been read. You're too late.
19 Objection is overruled.

20 MR. WAGNER: Just for future reference.

21 THE COURT: The document speaks for itself. It's
22 published to the jury.

23 All right. Let's move on. Next question.

24 Q Now, Officer Gentry, again focus on the language of
25 the first sentence there. Can you explain a little bit

DIRECT EXAMINATION OF NICOLE GENTRY

236

1 about what Mr. Harris talked about with respect to raising
2 funds for Phase II trials?

3 A Well, the money -- he did speak about that, you know,
4 he needed money to fund those Phase II trials. There was
5 also talk about trying to get patents, U.S. patents for
6 these works. But I remember the beginning stages of what
7 was spoken about was very much about, you know, being gung
8 ho about starting these Phase II trials, and it's time to
9 do that. And, you know, to be able to fund that in order
10 to make it happen.

11 Q Now, Officer Gentry, I want you to be very clear
12 about this to the jury. Based on the presentation done by
13 Michael Harris and the documents you reviewed, what was
14 your understanding with respect to what Mr. Harris was
15 going to do with the money if he was provided with it?

16 A The money that I gave I thought was going to go
17 towards Phase II trials and this work, this good work, of
18 finding a cure for AIDS.

19 Q Now, what was your -- what was your understanding of
20 when those Phase II trials would begin and when they would
21 start?

22 A My understanding is as soon as the money was there
23 they could begin. I invested right away.

24 Q All right. So you decided to invest?

25 A I did.

DIRECT EXAMINATION OF NICOLE GENTRY

237

1 Q Now, if you can look at what's been marked as
2 Government's Exhibit 27, please. Now, did you decide to
3 invest on your own?

4 A I did.

5 Q And did you have someone -- or did you invest with
6 your -- did your partner invest with you?

7 A My partner and I invested a total of \$5,000
8 collectively together half and half.

9 Q And what did you receive in exchange for that \$5,000
10 investment?

11 A Immediately I received a subscription agreement.

12 Q Okay. So let's take a look at what's been marked as
13 Government's Exhibit 27. If you can identify that
14 document for the ladies and gentlemen of the jury.

15 A It's a subscription agreement that has my handwriting
16 at the top where I filled in my name and my address and
17 the date. And that's my signature in the bottom left as
18 the subscriber.

19 THE COURT: Any objection to 27, Mr. Wagner?

20 MR. WAGNER: No, Your Honor.

21 THE COURT: It will be received.

22 MR. NASEEM: Can we go ahead and publish that. Thank
23 you.

24 (Government's Exhibit 27 is received.)

25 Q Focusing on the top part of that document. What was

DIRECT EXAMINATION OF NICOLE GENTRY

238

1 the date on which you signed that subscription agreement?

2 A Third day of October, 2005.

3 Q Okay. And is that your name that appears there on
4 the document?

5 A It is, sir.

6 Q Now, looking at Paragraph 1. What was the total
7 amount of shares reflected that were purchased by you
8 individually?

9 A Two thousand five hundred.

10 Q And how much shares did you receive in exchange for
11 that \$2,500?

12 A Two thousand five hundred is my understanding.

13 Q And again, \$2,500. Did you invest a total of \$2,500?

14 A My total investment. I wrote a check for \$5,000. A
15 personal check for \$5,000.

16 Q And that investment, did that reflect your investment
17 and your partner's?

18 THE COURT: She already answered that. Next
19 question.

20 Q Scrolling down to the bottom there. That is your
21 signature, correct?

22 A Yes, sir.

23 Q And next to that, do you recognize that signature?

24 A That's Mr. Harris' signature.

25 Q Okay. Now, you mentioned you used a check to pay for

DIRECT EXAMINATION OF NICOLE GENTRY

239

1 those shares, correct?

2 A I did, sir.

3 Q Okay. And if you can look at Government's Exhibit
4 Number 28, Sergeant Gentry.

5 A Okay, sir.

6 Q And can you identify that document?

7 A It's my personal check.

8 Q Is it a copy -- a true and accurate copy of the
9 personal check you used to make this investment?

10 A Yes, it is.

11 THE COURT: Any objection, Mr. Wagner?

12 MR. WAGNER: There's not, Judge.

13 THE COURT: It will be received.

14 (Government's Exhibit 28 is received.)

15 Q Now, looking at that check. Who is that check made
16 out to?

17 A M.F. Harris Research, Incorporated.

18 Q And what's the total dollar amount again?

19 A Five thousand.

20 Q And the date reflected on that check, October 3,
21 2005, does that accurately reflect the date on which you
22 made your investment?

23 A Yes, sir.

24 Q Now, Sergeant Gentry, after you made your investment,
25 did there come a time when you -- what happened after you

DIRECT EXAMINATION OF NICOLE GENTRY

240

1 made your investment?

2 A After I made my investment, some time had gone by and
3 I was feeling a little uncomfortable about not receiving
4 something tangible saying that I was a shareholder. And
5 then sometime after that I received a certificate of
6 sorts. And frankly when I received that, I wasn't super
7 overwhelmed and happy visually about the way that looked
8 either.

9 MR. NASEEM: Now going back to Government's Exhibit
10 Number 27. If you can publish that for the ladies and
11 gentlemen of the jury. And going to the second page of
12 that exhibit.

13 Q Now, do you recognize that as the certificate that
14 you received in exchange for your investment?

15 A I do.

16 Q Now, did there -- did there come a period of time
17 that passed before you made communication with Mr. Harris
18 again?

19 A There had. Yes.

20 Q And how did you make communication with Mr. Harris?

21 A I didn't make communication with him directly from
22 myself. I had expressed through this mutual friend that I
23 was not feeling very comfortable about not having received
24 anything tangible regarding this \$5,000 check I had
25 written. Something tangible to say that, you know, I had

DIRECT EXAMINATION OF NICOLE GENTRY

241

1 shares in this company something other than the subscriber
2 agreement.

3 Sometime after that, after I had expressed that I was
4 starting not to feel -- I was starting to feel like I had
5 made a mistake writing this check, I started to feel
6 uncomfortable so I tried to talk to this mutual friend to
7 see if Mr. Harris could give me -- at least give me some
8 piece of mind and give me something tangible so I don't
9 think that I've written this check out into the blue. And
10 that's what I received.

11 Q So looking at what's been labeled as Government's
12 Exhibit 29 there before you in the folder. Now, can you
13 take a moment to look at the 2-page document there before
14 you.

15 A I understand what it is, sir.

16 Q Can you identify that document for the ladies and
17 gentlemen of the jury, please.

18 A It's an e-mail communication between myself and
19 Mr. Harris, and then to other shareholders.

20 Q And do you recognize them as e-mails that you sent
21 and received to and from your e-mail address?

22 A Yes.

23 Q Okay.

24 MR. NASEEM: Your Honor, at this time we'd like to
25 move in the e-mails.

DIRECT EXAMINATION OF NICOLE GENTRY

242

1 THE COURT: Any objection, Mr. Wagner?

2 MR. WAGNER: No objection, Judge.

3 THE COURT: Be received.

4 (Government's Exhibit 29 is received.)

5 MR. NASEEM: If we could publish Exhibit 29, please.

6 Q Going to the -- now, this is a 2-page document. And
7 going to the second page of the document, if we can focus
8 in on the bottom part. And, Sergeant Gentry, up at the
9 top, can you explain a little bit about who this e-mail is
10 from and who it's to?

11 A The e-mail where it begins at the bottom is from
12 myself to Mr. Harris. And then the top is his reply.

13 Q Can you generally explain what it is you are
14 communicating to Mr. Harris in that e-mail?

15 THE COURT: Well, the document speaks for itself. Do
16 you want her to read it or explain her impression of what
17 she sent?

18 MR. NASEEM: Why don't I ask her to --

19 Q Why did you send this e-mail?

20 A I sent the e-mail because of the shareholders,
21 particularly in the Fredericksburg area. The ones that
22 I'm very close to and familiar with, we had gotten
23 together and expressed how uncomfortable we were --

24 MR. WAGNER: Objection as to what other people
25 expressed, Your Honor.

DIRECT EXAMINATION OF NICOLE GENTRY

243

1 THE COURT: Objection sustained.

2 I think, officer, you just need to talk about your
3 personal impressions, all right?

4 MS. GENTRY: Yes, sir.

5 THE COURT: All right. Go ahead.

6 A I was not feeling comfortable about not having any
7 contact with Mr. Harris, you know, no updates, what's
8 going on with trials, you know, what's happening. So I
9 elected to send an e-mail to him and he replied, so I
10 forwarded it on.

11 Q And the date of this e-mail is May 5, 2009, correct?

12 A Yes.

13 MR. NASEEM: If you would scroll up.

14 Q Did you recognize that as the response provided to
15 you by Mr. Harris?

16 A Yes, sir. At the top. Yes, sir.

17 MR. NASEEM: Let's scroll up to the top there. Is
18 that all the way to the top?

19 Q Now, in the e-mail it mentions, *"we got awarded our*
20 *US patent and this past Monday our African patent no one*
21 *threw a party either and it's sad???"*

22 What was your understanding with respect to what that
23 meant?

24 A That we had gotten our U.S. and African patents.

25 Q Okay. Continuing on it says, *"We have a web site*

DIRECT EXAMINATION OF NICOLE GENTRY

244

1 *mfharrisresearch*" --

2 MR. WAGNER: Objection. The document speaks for
3 itself, Judge. She can give her response.

4 THE COURT: Well, unless he's drawing her attention
5 to that portion for some specific purpose, I'm going to
6 sustain the objection.

7 Are you going to direct her attention to a specific
8 portion of the e-mail?

9 MR. NASEEM: Yes, Your Honor.

10 THE COURT: All right. Do it as succinctly as you
11 can, please.

12 Q Directing your attention to the following sentence,
13 Sergeant Gentry, what was your impression with respect to
14 what is displayed there and what affect it had on you when
15 you read it?

16 A I mean, the following couple of sentences, my
17 understanding is that we have a website now and somebody
18 is working on gathering our taxes and financials together.

19 Q And when you received this information in this
20 e-mail, what affect did that have on you?

21 A I thought that was great news. It sounded like some
22 information was on the horizon. Maybe I would hear more
23 soon.

24 Q Turning to the first page of that exhibit. Now, can
25 you explain to the ladies and gentlemen of the jury, is

DIRECT EXAMINATION OF NICOLE GENTRY

245

1 this an e-mail that you sent?

2 A Yes.

3 Q And to whom did you send this e-mail?

4 A Any shareholders that I knew of that I had their
5 e-mail addresses.

6 Q And what was the purpose of you sending this e-mail
7 to all the other shareholders?

8 A The other shareholders wanted the information as
9 well, expressed that to me, and I said I would pass on
10 anything that I was able to find out.

11 Q Now, did there come a time later on when you received
12 a communication to attend a shareholders' meeting?

13 A Yes.

14 Q And if you would look to what's been marked as
15 Government's Exhibit 30.

16 A All right, sir.

17 Q And can you identify that document, please.

18 A It's a notification. An invitation for a meeting
19 from Mr. Harris that I got in the mail.

20 Q Okay.

21 MR. NASEEM: And do you have any objection, counsel?

22 Your Honor, at this time I would move to have the
23 letter admitted into evidence.

24 THE COURT: It will be admitted without objection.

25 MR. WAGNER: It's already admitted, Judge.

DIRECT EXAMINATION OF NICOLE GENTRY

246

1 THE COURT: I thought that it was.

2 MR. NASEEM: Well, this is Government's Exhibit 30,
3 Your Honor.

4 THE COURT: Well, I think that the same item under a
5 different number with a different witness has been
6 admitted. I'll let this one come in at this time, but I
7 think there's two. That's going to be sufficient.

8 MR. NASEEM: Your Honor, this was the specific
9 invitation that Sergeant Gentry received in --

10 THE COURT: Is it addressed to her?

11 MR. NASEEM: Yes, sir. Well, this --

12 THE COURT: I apologize to you. It will come in.
13 All right. I thought you were putting in the same thing
14 that you put in through another witness. It will be
15 received.

16 Next question. Let's go.

17 (Government's Exhibit 30 is received.)

18 Q Officer Gentry, the letter there before you, how did
19 you receive that letter?

20 A Through the mail.

21 Q Okay. Now, can you briefly explain to the ladies and
22 gentlemen of the jury what is -- what you were invited to
23 and whether you attended that meeting.

24 A It's an invitation or notification for an annual
25 shareholders' meeting. It provided the date and the time

DIRECT EXAMINATION OF NICOLE GENTRY

247

1 and location. And I did attend that one.

2 Q And why did you attend that meeting, Sergeant Gentry?

3 A I was hoping to get some more information to find out
4 what was going on with the investment.

5 Q And why was that? At that point in time, why was
6 that?

7 A There was not a lot of communication. Not a lot of
8 information was being offered up.

9 Q Okay. Now, tell us a little bit about the meeting
10 itself that you attended. Tell us a little bit about what
11 was discussed. Who was there and who spoke?

12 A Mr. Harris was there. There were several people
13 there. I was only familiar with the shareholders that
14 were from Fredericksburg that were at this meeting.

15 I will tell you this, I left the meeting --

16 MR. WAGNER: Objection. Nonresponsive, Judge.

17 THE COURT: Wait for the next question, officer.

18 MS. GENTRY: Yes, sir.

19 THE COURT: Go ahead with your follow-up question.

20 MR. NASEEM: Okay. I apologize.

21 Q Can you explain to the ladies and gentlemen of the
22 jury what it was -- who was at the meeting?

23 A Mr. Harris was at the meeting. There was an
24 attorney. I don't remember the name of that person.

25 There were -- like I said, I was familiar with the

DIRECT EXAMINATION OF NICOLE GENTRY

248

1 Fredericksburg shareholder people there.

2 Q Did Mr. Harris speak at that meeting?

3 A He did.

4 Q Did he talk about the financial condition of the
5 company at that meeting?

6 A I don't recall if he did that or not. I didn't leave
7 with a better understanding of anything when I left that
8 meeting.

9 Q What was your impression of what was discussed at
10 that meeting?

11 A I thought it was all really confusing and not clear.
12 And, again, I left that meeting not feeling anymore
13 worldly about my investment than when I arrived.

14 Q Now, were you provided with any financial information
15 regarding the company and how investor money had been
16 spent?

17 A I don't recall receiving anything regarding that.

18 Q Okay. Now, Officer Gentry, after you left the
19 meeting, can you give the ladies and gentlemen of the jury
20 an explanation of what impression you left with and how
21 you felt about your investment at that point?

22 THE COURT: I think she just described that.

23 But if there's anything you haven't described, you
24 may.

25 MS. GENTRY: Well, Your Honor, if I can just add, I

DIRECT EXAMINATION OF NICOLE GENTRY

249

1 felt like I had made a mistake.

2 THE COURT: Okay.

3 Q And why is that, Sergeant Gentry?

4 A I felt as though I had written a check and thought I
5 was doing the right thing and thought we were all doing
6 good things, or headed in that direction of doing good
7 things. And I feel like I wrote a check and I made a very
8 big mistake.

9 MR. NASEEM: Now, referring back to Government's
10 Exhibit 30, Your Honor, I'm going to ask this question
11 again because this is related to our count.

12 Q Are you certain that you received this document via
13 U.S. Mail?

14 MR. WAGNER: Judge, this has been asked and answered.

15 THE COURT: No. Not that specific question. The
16 objection is overruled. Not that she received it by U.S.
17 Mail.

18 You may respond, officer.

19 A I received it in my mailbox at my home address. Yes.

20 Q Sergeant Gentry, I have one question. At the
21 shareholders' meeting in 2010, what was your impression of
22 what Mr. Harris was trying to do and communicate to the
23 investors at the meeting?

24 MR. WAGNER: Objection to the form of the question.

25 THE COURT: Yes. That calls for speculation on her

CROSS-EXAMINATION OF NICOLE GENTRY 250

1 part. Why don't you rephrase your -- think about it, and
2 rephrase your question.

3 Q What impression did you have with respect to what
4 Mr. Harris was communicating at the meeting?

5 MR. WAGNER: It's been asked and answered, Judge,
6 several times.

7 THE COURT: That's my impression, but is there
8 anything that was responsive to that question that you
9 have not answered already?

10 MS. GENTRY: May I hear the question again, please.

11 Q What impression did you have with respect to what
12 Mr. Harris was communicating, or attempting to
13 communicate, at that meeting regarding the company and
14 its --

15 MR. WAGNER: I have to say asked and answered, Judge,
16 several times.

17 THE COURT: I think she has.

18 MR. NASEEM: We'll withdraw the question.

19 THE COURT: I think she's answered the question.

20 MR. NASEEM: Thank you, Your Honor.

21 THE COURT: All right. Very good.

22 MR. NASEEM: I pass the witness, Your Honor.

23 THE COURT: Yes, sir.

24 Mr. Wagner, questions of Officer Gentry?

25 MR. WAGNER: I do, Judge.

CROSS-EXAMINATION

BY MR. WAGNER:

Q Good afternoon, Sergeant Gentry.

A Good afternoon.

Q How are you?

A I'm well. Thank you.

Q First time you met Mr. Harris was back in 2005, is that safe to say?

A It's been some time ago. Yes.

Q And was the first time you met him at that meeting with other people from Fredericksburg at a tavern?

A It was.

Q And are you sure this was at the Colonial Tavern?

A The full name is Home of the Irish -- the Colonial Tavern, Home to the Irish Brigade.

Q It's also referred to as the Irish Brigade Tavern, is that true?

A Yes.

Q Okay. Thank you. And do you remember whether Helen Cantrell was there?

A On that particular visit, I don't know if she was there particularly on that occasion, but I know that she is a shareholder.

Q Have you spoken to her about her investment?

A Helen and I really don't -- I mean, we were very,

CROSS-EXAMINATION OF NICOLE GENTRY

252

1 very dear friends about 20 years ago. Unfortunately, I've
2 not spoken to her -- the last time I spoke to Helen was
3 before she got sick with cancer, and that's been a while.

4 Q So you didn't speak with her about what happened at
5 that meeting?

6 A I may have spoken to her. Several people were fired
7 up, including myself. I may have spoken to her. She may
8 have been in the same room. I can't say whether I did or
9 didn't. It wouldn't have been uncommon for me to speak
10 with her.

11 Q Okay. And do you recall her saying at that meeting
12 that Mr. Harris indicated that he would take a salary from
13 the money that was received?

14 A That's not familiar to me.

15 Q Okay. Was your mother there?

16 A My mom? Yes, my mom drove. I rode with her.

17 Q And was Michelle Clark there?

18 A I believe Michelle was there. Yes.

19 Q And Terri Hubbell? Am I saying that name right?

20 A Terri Gamlin.

21 Q Terri Gamlin. There's another Terri perhaps? Terri
22 Hubbell as well?

23 A I did not understand her to be a shareholder, but she
24 could have been there perhaps. I don't think she was,
25 frankly.

CROSS-EXAMINATION OF NICOLE GENTRY

253

1 Q And Terri Gamlin?

2 A I believe Terri Gamlin was there. She is a
3 shareholder.

4 Q All right. And do you remember exactly what
5 Mr. Harris said about what he was going to do with the
6 money that you invested into his company?

7 A It was all going to be for research for a cure for
8 AIDS.

9 Q And did you testify on direct examination that it was
10 for Phase II trials?

11 A Yes. All part of the research. I mean, I understood
12 Phase II trials would be all part of the research.

13 Q Okay. That wasn't part of the human trials which may
14 be a little different than the research?

15 A I understood it all to be all for the common, like,
16 good for finding a cure for AIDS. Phase II trials,
17 research, there were a lot of words that were used. To me
18 it all pointed in the direction of research, sir.

19 Q Okay. When you talked about the Phase II trials and
20 when you talked about the research, did you write anything
21 down from that meeting?

22 A No. I don't recall that I did.

23 Q I'm sorry?

24 A I don't believe I wrote anything down. I would have
25 kept it, and I don't have anything.

CROSS-EXAMINATION OF NICOLE GENTRY

254

1 Q Do you know if your mother wrote anything down?

2 A I don't.

3 Q Have you spoken to your mother about her investment?

4 A Yes.

5 Q And did there come a time when your mother was asked
6 to fill out a questionnaire sent to her by state
7 investigators?

8 A Yes. She did speak about that.

9 Q All right. And did you see the questionnaire?

10 A I did. I got one in the mail.

11 Q Okay. And you filled out a questionnaire as well?

12 A I looked at the questionnaire. I have a blank one at
13 home, but I believe it belongs to Meredith. I can't
14 remember if I filled it out or not, to tell you the truth.

15 Q Did you help your mother fill hers out?

16 A No. I don't think I had to help her.

17 Q Okay.

18 A She did express to me that she had received this.
19 She asked me if I had received one in the mail, and I said
20 I had.

21 Q Did she talk to you about who she relied upon in
22 order to make this investment in Michael Harris' company?

23 A That would have been me.

24 Q Is it possible that in response to the questionnaire
25 it would have been Michelle Clark?

CROSS-EXAMINATION OF NICOLE GENTRY

255

1 A As my mother would have filled it out?

2 Q Yes, ma'am.

3 A Well, I can see where potentially she would have
4 filled that name in. Yes.

5 Q Thank you.

6 A But I'm the one that notified her --

7 Q There's no question now.

8 A I'm sorry.

9 Q After the presentation, when was the next time that
10 you actually thought about what was said at that meeting
11 in 2005?

12 A The question is when was the next time after the
13 meeting that I thought about?

14 Q What was said by Michael Harris about what was to be
15 done with your money, when was the next time you thought
16 about that?

17 A Quite frankly, I thought about it for probably about
18 another month after the meeting, and I was angry,
19 disappointed, embarrassed, and pretty much decided that I
20 would call that whole adventure a part of my past.

21 Q So is it safe to say that you didn't think about it
22 for six, seven years?

23 A It had been some time. I had made it a part of my
24 past. Yes.

25 Q And the next time you thought about it was in

CROSS-EXAMINATION OF NICOLE GENTRY

256

1 response to a request from a law enforcement officer?

2 A Yes.

3 Q And you're a law enforcement officer, correct?

4 A I am, sir.

5 Q And in that conversation with the law enforcement
6 officer, did you say anything to the officer about Michael
7 Harris referencing Phase II trials?

8 A I imagine it came up during the interview. That was
9 part of my understanding is what the money was going
10 toward is research, which included Phase II trials.

11 Q You say you imagined it did. You're not sure,
12 though?

13 A I can't recall every word that I told the
14 investigators, if that's what you're asking me.

15 MR. WAGNER: If I could have just one moment, Judge.

16 THE COURT: Okay.

17 Q Maybe this will refresh your recollection. Let me
18 show you what is a summary of an interview that you had
19 with Agent Gregor in October of 2012. If you will look at
20 the second page of the highlighted portion in there.

21 A All right.

22 Q Did Agent Gregor write anything down about your
23 saying to him that Michael Harris referenced Phase II
24 trials?

25 THE COURT: I think you should ask whether that

1 refreshes her recollection.

2 MR. WAGNER: That's probably true.

3 Q Did this help to refresh your recollection?

4 A I want to answer your question. There's no --

5 Q I don't think the Judge allowed my question. If you
6 could, does this help to refresh your recollection?

7 A Yes.

8 THE COURT: All right. Proceed.

9 Q And isn't it true that you said to Agent Gregor
10 nothing about Phase II trials?

11 A As it's transcribed on this document, I don't see
12 anywhere on here where it references Phase II trials.

13 Q Thank you. And it also says there -- well, let me
14 ask you this. Did you tell Agent Gregor that you believed
15 that the investment was to be used to further conduct
16 research for the company?

17 A Yes.

18 Q Okay. So it would appear that you weren't sure about
19 what Mr. Harris said, is that fair to say?

20 MR. GILL: Your Honor, I object to that
21 characterization. He's using a document provided by
22 another person that's used to refresh her memory, and now
23 he's trying to impeach her with a report written by
24 somebody else.

25 THE COURT: I think the objection is sustained. You

CROSS-EXAMINATION OF NICOLE GENTRY

258

1 may approach it differently, but not the way you presented
2 it to her.

3 MR. WAGNER: Thank you.

4 Q Were you certain about what you said to Agent Gregor
5 about the statements that Mr. Harris made back in 2005 to
6 get you to invest in the company?

7 A I'm certain that what I -- the way I was interviewed
8 and answered the questions for Agent Gregor was true and
9 correct as I can recall from 2005.

10 Q That's fair enough. Thank you.

11 Now, as a police officer -- you're a sergeant, is
12 that correct?

13 A Yes, sir.

14 Q How long on the force?

15 A Sixteen years yesterday.

16 Q And do you investigate fraud cases?

17 A I have taken preliminary police reports on fraud
18 cases. It's been some time, but I've done it.

19 Q And through the course of this experience, this
20 situation you had with Mr. Harris in 2005, that never
21 prompted you to seek any investigation of him for fraud,
22 is that correct?

23 A Several times.

24 Q In 2005?

25 A Maybe not by the end of that first year, but there

CROSS-EXAMINATION OF NICOLE GENTRY

259

1 were several times that I thought that I should report
2 something, but out of embarrassment I did not.

3 Q Okay. In 2009 you learned that the company received
4 a United States patent, is that right?

5 A Yes.

6 Q And an African patent, correct?

7 A As indicated in the e-mail.

8 Q And would it be fair to say that you were pretty
9 excited about the company then?

10 A I don't think at any time did I feel excited. I
11 mean, I never really felt like I had a clear understanding
12 as to what was going on. I mean, I was glad that, you
13 know, face value on the e-mail it appeared that he seemed
14 to be very excited. And I was a shareholder and I wanted
15 to be part of this wonderful thing we were doing, but it
16 was never really clear to me if anything was getting done.

17 Q Now, is it true that Mr. Harris in his presentation
18 in Fredericksburg back in 2005 that he was trying to tell
19 the people there that he was moving the company forward,
20 is that safe to say?

21 A It sounded -- yeah, it sounded like he was ready to
22 go forward with the Phase II trials.

23 Q And you indicated that there was an attorney present
24 at that meeting, correct?

25 A As I -- the one in Tyson's, sir?

CROSS-EXAMINATION OF NICOLE GENTRY

260

1 Q I'm sorry. At the 2005 meeting that you had with
2 Mr. Harris.

3 A No, sir. I was -- the attorney I referenced what I
4 meant was at Tyson's Corner.

5 Q I'm sorry. Was there an attorney present --

6 THE COURT: Now, you're talking about 2005? You're
7 talking about at the pub in Fredericksburg, right?

8 MS. GENTRY: Yes, sir. That's my understanding.

9 THE COURT: Go ahead.

10 Q Do you recall whether there was an attorney present
11 in 2005 at that meeting in Fredericksburg?

12 A I don't recall an attorney being present. No.

13 Q Do you recall someone named Jeff Seto that was
14 involved with Mr. Harris at that time?

15 A No, sir. I don't recall.

16 Q Did you speak with your mother about -- did your
17 mother attend any meetings with Mr. Harris that you did
18 not attend, to the best of your knowledge?

19 A I don't know, sir, if she did or not. It wouldn't
20 seem reasonable to me that she would, but I don't know
21 that she didn't.

22 Q And did you discuss with her at any time whether Jeff
23 Seto was a speaker at that meeting?

24 THE COURT: What meeting?

25

CROSS-EXAMINATION OF NICOLE GENTRY

261

1 MR. WAGNER: The 2005 meeting at the tavern.

2 A I don't recall a Jeff Seto, sir.

3 Q Okay.

4 MR. WAGNER: Let me see Exhibit 53, if I could.

5 Q Do you recall if Mr. Harris had this folder with him
6 at that meeting in 2005?

7 THE COURT: You're referring to your Exhibit 53?

8 MR. WAGNER: Exhibit 53. Yes, sir.

9 A I don't have any idea. It's been several years ago.

10 MR. WAGNER: I'll move on.

11 Q Now, do you remember over the course of your meetings
12 and your discussions with Mr. Harris whether he talked
13 about the Deep Blue group?

14 A He did.

15 Q And did he indicate that the folks in Deep Blue were
16 trying to steal his science? Do you remember that?

17 A Yes.

18 Q And that they had split off from him at a time in the
19 past and were in competition with his company, is that
20 right?

21 A Yes. I mean, that was my understanding. When he
22 spoke about that, it was usually very quick snippets and
23 he was typically angry when he was speaking about it. I
24 could tell that these were folks that he used to worked
25 for or worked with, and that he was not happy with them.

CROSS-EXAMINATION OF NICOLE GENTRY

262

1 And then he would reiterate how important it was to keep
2 the information that we knew to ourselves and not talk
3 about it.

4 Q And did you ever remember the name Jeff Seto being
5 associated with the people from Deep Blue?

6 A Again, sir, I don't know that name. I really can't
7 associate any name with Deep Blue. I don't really recall.

8 Q Matt Johnson doesn't ring a bell?

9 A No, sir.

10 MR. NASEEM: Your Honor, objection. Asked and
11 answered.

12 MR. WAGNER: Okay.

13 Q Do you recall that Mr. Harris -- one of the things he
14 talked about when he tried to -- when he showed his
15 PowerPoint presentation and when he talked about his
16 company, do you recall that he talked about the need to
17 get big sources of income coming into the company?

18 A Sir, if you're asking me if I recall that verbiage
19 from 2005, I don't necessarily recall it. My
20 understanding during that meeting is that money was
21 needed. As far as large investments, I don't remember
22 that verbiage.

23 Q And in order to conduct the Phase II trials, a large
24 amount of capital would have been required for the company
25 to conduct those trials, is that fair to say?

CROSS-EXAMINATION OF NICOLE GENTRY

263

1 A I left knowing that money was needed to go further,
2 sir.

3 Q And do you remember from the 2010 shareholders'
4 meeting that there was a lot of talk about raising capital
5 in order to move on to the Phase II trials to the human
6 trials?

7 A Money was always needed. It was always a topic.

8 Q All right. And isn't it true that Michael Harris was
9 the CEO and president of this company?

10 A It's my understanding.

11 Q And it was a one-man show? It was just him really?

12 A As far as I understood except for who this secretary
13 was. That was my understanding, yes.

14 Q And you felt that Mr. Harris was very passionate
15 about the work he was doing, isn't that right?

16 A That was the very first impression he gave me when I
17 met him. Yes.

18 Q And there were things that he was doing to move the
19 company forward, is that fair to say?

20 A It sounded to me during the first meeting I had with
21 him that he had a plan. Like there were things that he
22 wanted to do for the future. In fairness, I had just met
23 the gentleman so I didn't know a lot about his past, but
24 he seemed to have kind a mapped out a future with the
25 Phase II trials and going forward, and he seemed to be

1 very excited about this research regarding the cure for
2 AIDS.

3 Q All right. And is it fair to say that as a president
4 and CEO of this company that he's entitled to a salary?

5 A I don't see why not.

6 Q And is it fair to say that as president and CEO of
7 this company that there are office expenses that he
8 incurs?

9 A I would imagine you need certain supplies to do this
10 work. Yes.

11 Q And travel expenses that he had in promoting the
12 company?

13 A As it relates to research for the cure of AIDS, I
14 would have been all right with that.

15 MR. WAGNER: One moment, please.

16 Nothing further, Judge.

17 THE COURT: Mr. Naseem, any redirect?

18 **REDIRECT EXAMINATION**

19 BY MR. NASEEM:

20 Q Sergeant Gentry, at that meeting in 2005 when
21 Mr. Harris made the presentation at the Colonial Tavern,
22 what did he say about applying investor funds to personal
23 expenses?

24 A We didn't talk about personal expenses.

25 Q Did he mention anything about using the investor

REDIRECT EXAMINATION OF NICOLE GENTRY 265

1 money that he had took from the people at that meeting to
2 apply toward things such as his mortgage?

3 A No.

4 Q Such as his farm?

5 A No.

6 Q Such as utilities on his house?

7 A No. That was not my understanding, sir.

8 Q Now, you were provided with a document. A 302 is
9 what it was. Is that 302, the document that counsel
10 provided to you, is that a transcription of the statements
11 that you made word-for-word to Agent Gregor?

12 A It appears to be, sir.

13 Q So what distinction did you make based on the
14 representations of Mr. Harris between Phase II trials and
15 research?

16 THE COURT: What distinction did she make to the
17 agent or to herself? Put it in context, Mr. Naseem.

18 Q What distinction did you make between the term Phase
19 II trial and the research in the context of how Michael
20 Harris explained them to you?

21 A Sir, my understanding is that the research --

22 MR. WAGNER: Objection to her understanding. That's
23 not relevant. What's relevant is what Michael Harris told
24 her.

25 THE COURT: I think the question is what is her

REDIRECT EXAMINATION OF NICOLE GENTRY 266

1 understanding. The question calls for in her mind is
2 there a distinction between research and Phase II trials,
3 is that correct?

4 MR. NASEEM: That's correct, Your Honor.

5 THE COURT: You may answer, sergeant.

6 A My understanding is research, Phase II trials,
7 everything was the same thing. It's all research all
8 going towards the cure for AIDS.

9 THE COURT: Next question.

10 A So, I made no distinction, frankly.

11 Q Thank you.

12 MR. NASEEM: Those are all the questions I have, Your
13 Honor.

14 THE COURT: May the sergeant be excused?

15 MR. NASEEM: Yes, Your Honor.

16 THE COURT: Mr. Wagner, may the sergeant be excused?

17 MR. WAGNER: She may.

18 THE COURT: Sergeant, thank you for your testimony.
19 We appreciate you coming in today.

20 MS. GENTRY: Yes, sir.

21 **WITNESS STOOD ASIDE**

22 THE COURT: Do you have a relatively short witness,
23 Mr. Gill?

24 MR. GILL: No, Your Honor. This will be a few
25 minutes.

1 THE COURT: What do you mean by that?

2 MR. GILL: Probably 40 minutes on direct.

3 THE COURT: All right. Then we're going to take it
4 first thing tomorrow morning.

5 Ladies and gentlemen, we're going to recess now until
6 9:00 tomorrow morning. Until then, I want to remind you
7 how important it is not to discuss the case among
8 yourselves, or with anyone else. I know how tempting it
9 is tonight when you get home to talk to your children,
10 your spouse, your friends about the exciting case you're
11 hearing down here at the courthouse, but you just simply
12 cannot do that. Keep your own counsel. Avoid any news
13 contact about this case. Get a good night's sleep. We'll
14 see you back here tomorrow morning at 9:00.

15 JUROR: Do we leave these here?

16 THE COURT: Yes, ma'am. Just leave them right there.
17 The Marshal will take care of them for you.

18 (The jury is no longer present in the courtroom.)

19 THE COURT: Anything further before we recess?

20 MR. GILL: No, Your Honor.

21 THE COURT: Mr. Wagner?

22 MR. WAGNER: No, Your Honor.

23 THE COURT: All right. Then we'll stand in recess
24 until tomorrow morning at 9:00. I've got a matter at
25 8:30. I'm planning on having that completed by 9:00, but

1 if not it may be a minute or two late. I'm going to
2 strive to be finished by 9:00.

3 MR. WAGNER: Sounds good, Your Honor.

4 THE COURT: All right. I'll see everyone then.
5 Thank you.

6 We'll stand in recess.

7 (The proceeding concluded at 5:27 p.m.)

8 REPORTER'S CERTIFICATE

9 I, Krista M. Liscio, OCR, RMR, Notary
10 Public in and for the Commonwealth of Virginia at
11 large, and whose commission expires March 31, 2016,
12 Notary Registration Number 149462, do hereby certify
13 that the pages contained herein accurately reflect
14 the notes taken by me, to the best of my ability, in
15 the above-styled action.

16 Given under my hand this 10th day of July, 2013.

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Krista M. Liscio, RMR
Official Court Reporter